

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JAMES WILLIAM AUSSICKER,

Petitioner,

v.

Case No. 2:08-CV-12280

CINDI CURTIN,

Respondent.

**ORDER DENYING PETITIONER JAMES WILLIAM AUSSICKER'S
MOTION FOR A CERTIFICATE OF APPEALABILITY AND GRANTING HIS MOTION
TO PROCEED IN FORMA PAUPERIS ON APPEAL**

This matter is before the court on Petitioner's motion for a certificate of appealability and motion for leave to proceed *in forma pauperis* on appeal concerning the denial of his petition for a writ of habeas corpus. The court declined to issue a certificate of appealability in its opinion and order denying the petition. The court finds no reason to reconsider that decision. A motion for reconsideration which presents issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. See *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Petitioner has not met his burden of showing a palpable defect by which the court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(h)(3). Accordingly, the court will deny his motion for a certificate of appealability.

Petitioner also seeks leave to proceed *in forma pauperis* on appeal. See Fed. R. App. P. 24(a)(1). An appeal may not be taken *in forma pauperis* if the court determines that it is not taken in good faith. 28 U.S.C. § 1915(a)(3). Although the court has declined to issue a certificate of appealability in this case, the court cannot certify that the appeal is not taken in good faith. The court will therefore allow Petitioner to proceed *in forma pauperis* on appeal. Accordingly,

IT IS ORDERED that Petitioner's motion for a certificate of appealability [Dkt. #31] is DENIED, and his motion to proceed *in forma pauperis* on appeal [Dkt. # 29] is GRANTED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: April 9, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, April 9, 2010, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522