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

DAVID WATSON,

Plaintiff,

v.

Case No. 08-cv-12873

MICHIGAN DEPT. OF CORRECTIONS, et al.

Defendants.

OPINION AND ORDER DENYING PLAINTIFF'S "MOTION FOR CERTIFICATE OF APPEALABILITY"

Pending before the court is Plaintiff David Watson's "Motion for Certificate of Appealability." Plaintiff, a state inmate currently incarcerated at the Saginaw Regional Correctional Facility, filed a complaint on July 7, 2008, alleging state and federal constitutional violations under 42 U.S.C. § 1983. On April 30, 2009, the court issued an order adopting the Magistrate Judge's report and recommendation and granting all Defendants' motions to dismiss. Plaintiff subsequently filed a notice of appeal and the current motion.

A certificate of appealability is required only in certain types of cases, typically habeas corpus proceedings brought pursuant to 28 U.S.C. §§ 2254 and 2255. *See* 28 U.S.C. § 2253(c). A certificate of appealability is not required, however, to appeal a district court order denying relief under 42 U.S.C. § 1983. *Johnson v. CCA-Northeast Ohio Corr. Ctr.*, 21 F. App'x 330, 332 (6th Cir. 2001).

Accordingly, IT IS ORDERED that the Plaintiff's Motion for Certificate of

Appealability [Dkt. #37] is DENIED.

<u>s/Robert H. Cleland</u> ROBERT H. CLELAND UNITED STATES DISTRICT JUDGE

Dated: July 2, 2009

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 2, 2009, by electronic and/or ordinary mail.

> <u>s/Lisa G. Wagner</u> Case Manager and Deputy Clerk (313) 234-5522

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