

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

REGINALD MONTGOMERY,
202693

Petitioner,

v.

Case Number: 2:09-cv-10404
Honorable Victoria A. Roberts

GREGORY MCQUIGGIN,

Respondent.

**ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY AS MOOT
AND GRANTING APPLICATION TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

On January 17, 2012, Petitioner filed a “Notice of Appeal” [dkt. # 11], an “Application to Proceed *In Forma Pauperis* on Appeal” [dkt. # 13], and a “Motion for Certificate of Appealability” [dkt. # 14], concerning the Court’s Opinion and Order denying his Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254, on December 20, 2011. *Montgomery v. McQuiggin*, No. 2:09-cv-10404, 2011 WL 6371049 (E.D. Mich. Dec. 20, 2011). In that Opinion and Order, the Court also declined to issue Petitioner a Certificate of Appealability (COA). *Id.* at 14-15. The Court concluded that reasonable jurists would not find its assessment of Petitioner’s claims to be debatable or wrong. *Id.* Accordingly, since the Court has already ruled on the COA issue, Petitioner’s Motion for a COA is denied as moot.

Regarding Petitioner’s Application to Proceed *In Forma Pauperis*, Federal Rule of Appellate Procedure 24(a)(1) provides that a party to a district court action who desires to appeal *in forma pauperis* must file a motion in the district court. 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). Here,

the Court determines that Petitioner's Application to Proceed *In Forma Pauperis* is taken in good faith, and the Court therefore grants Petitioner's Application.

IT IS SO ORDERED.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: January 26, 2012

The undersigned certifies that a copy of this document was served on the attorneys of record and Reginald Montgomery by electronic means or U.S. Mail on January 26, 2012.

s/Carol A. Pinegar
Deputy Clerk