

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NAPOLEAN WATKINS,

Petitioner,

vs.

CASE NO. 2:14-CV-13200
HONORABLE SEAN F. COX
UNITED STATES DISTRICT JUDGE

ROBERT NAPEL,

Respondent.

**ORDER DIRECTING THE CLERK OF THE COURT TO TRANSFER THE
APPLICATION TO PROCEED WITHOUT PREPAYMENT OF FEES AND COSTS ON
APPEAL TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH
CIRCUIT**

On May 16, 2017, this Court denied the petition for a writ of habeas corpus, declined to issue a certificate of appealability, and denied petitioner leave to appeal *in forma pauperis*. [Dkt. # 18].

On June 16, 2017, petitioner filed a notice of appeal with the United States Court of Appeals for the Sixth Circuit. On the same day, petitioner filed an application to proceed without prepayment of fees and costs on appeal with this Court. [Dkt. # 21]. For the reasons stated below, the Court orders that the application be transferred to the United States Court of Appeals for the Sixth Circuit. A notice of appeal generally “confers jurisdiction on the court of appeals and divests the district court of control over those aspects of the case involved in the appeal.” *Marrese v. American Academy of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985)(citing *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(*per curiam*)); *Workman v. Tate*, 958 F.2d 164, 167 (6th Cir. 1992). Petitioner’s notice of appeal divests this Court of jurisdiction to

consider his motion that he be permitted to proceed *in forma pauperis* in the Sixth Circuit Court of Appeals. See *Johnson v. Woods*, No. 5:12–11632; 2013 WL 557271, *2 (E.D. Mich. February 13, 2013); *Glick v. U.S. Civil Service Com’n*, 567 F. Supp. 1483, 1490 (N.D. Ill. 1983); *Brinton v. Gaffney*, 560 F. Supp. 28, 29-30 (E.D. Pa. 1983). Because jurisdiction of this action was transferred from the district court to the Sixth Circuit Court of Appeals upon the filing of the notice of appeal, petitioner’s application to proceed without prepayment of fees and costs on appeal would be more appropriately addressed to the Sixth Circuit. In the interests of justice, this Court can order that the application to proceed *in forma pauperis* be transferred to the Sixth Circuit for that court’s consideration. See *Baker v. Perry*, No. 2:12–10424; 2012 WL 6097323, *2 (E.D. Mich. December 6, 2012).

IT IS HEREBY ORDERED that the Clerk of the Court transfer petitioner’s “Application to Proceed Without Prepayment of Fees and Costs on Appeal” [Dkt. # 21] to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631.

Dated: July 27, 2017

s/Sean F. Cox
Sean F. Cox
U. S. District Judge

I hereby certify that on July 27, 2017, the foregoing document was served on counsel of record via electronic means and upon Napoleon Watkins via First Class mail at the address below:

Napoleon Watkins
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s/J. McCoy
Case Manager