

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RONALD MORRELL,

Petitioner,

v.

Civil No. 2:17-CV-10961

HON. GEORGE CARAM STEEH

UNITED STATES DISTRICT JUDGE

DEWAYNE BURTON,

Respondent.

**OPINION AND ORDER GRANTING THE APPLICATION TO PROCEED
WITHOUT PREPAYMENT OF FEES AND COSTS ON APPEAL**

On January 6, 2020, this Court issued an opinion and order granting petitioner a writ of habeas corpus on his claim that the judge had violated his Sixth Amendment rights by using factors that had not been submitted to the jury to score his sentencing guidelines. This Court denied petitioner habeas relief on his remaining claims and denied him a certificate of appealability. *See Morrell v. Burton*, No. 2:17-CV-10961, 2020 WL 59700 (E.D. Mich. Jan. 6, 2020). Petitioner filed a Notice of Appeal with the Sixth Circuit regarding the claims that had been denied. Pending before the Court is petitioner's application to proceed without prepayment of fees and costs on appeal.

Although the Court has denied a certificate of appealability to petitioner, the standard for granting an application for leave to proceed *in forma pauperis* (IFP) is a lower standard than the standard for certificates of appealability. See *Foster v. Ludwick*, 208 F. Supp. 2d 750, 764 (E.D. Mich. 2002). Whereas a certificate of appealability may only be granted if petitioner makes a substantial showing of the denial of a constitutional right, a court may grant IFP status if it finds that an appeal is being taken in good faith. *Id.* at 764-65; 28 U.S.C. § 1915(a)(3); Fed. R.App.24 (a). “Good faith” requires a showing that the issues raised are not frivolous; it does not require a showing of probable success on the merits. *Foster*, 208 F. Supp. 2d at 765. Although jurists of reason would not debate the Court’s resolution of petitioner’s claims, the issues are not frivolous; therefore, an appeal could be taken in good faith and petitioner may proceed *in forma pauperis* on appeal. *Id.*

Based upon the foregoing, IT IS HEREBY ORDERED that the “Application to Proceed Without Prepaying Fees or Costs in Appeal” (ECF No. 44) is GRANTED.

Dated: May 4, 2020

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on May 4, 2020, by electronic and/or ordinary mail and also on Ronald Morrell #955782, Richard A. Handlon Correctional Facility, 1728 Bluewater Highway, Ionia, MI 48846.

s/Brianna Sauve
Deputy Clerk