

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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DENNIS D. LINEHAN,

Case No. 17-CV-4355 (SRN/HB)

Petitioner,

ORDER

v.

EMILY JOHNSON PIPER, Comm. Dept. Of  
Human Services, et al.,Respondent.

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Petitioner Dennis D. Linehan has applied for *in forma pauperis* (“IFP”) status on appeal from the dismissal of his petition for a writ of habeas corpus for lack of jurisdiction. *See* ECF No. 13. The Court has reviewed the IFP application and concludes that Linehan qualifies financially for IFP status. Moreover, although a litigant may proceed IFP only if his appeal is taken in good faith, and although the Court has declined to issue a COA, “[t]he standard for granting an application for leave to proceed *in forma pauperis* . . . is a lower standard than the standard for certificates of appealability.” *Moore v. Haas*, Civil No. 2:13-CV-12225, 2013 WL 5819593, at \*6 (E.D. Mich. Oct. 29, 2013); *accord United States v. Youngblood*, 116 F.3d 1113, 1115 (5th Cir. 1997). The Court continues to believe that the habeas petition was properly dismissed, but Linehan’s appeal is not frivolous as the Supreme Court has defined that term. Accordingly, the IFP application will be granted.<sup>1</sup>

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<sup>1</sup>That said, Linehan’s notice of appeal was by all indications filed too late, *see* Fed. R. App. P. 4(a)(1)(A), and the Court cannot find on the basis of the record before it that Linehan had good cause for the delay or that the failure to submit a timely notice of appeal was the product of excusable neglect, *see* Fed. R. App. P. 4(a)(5). Because the mistake is not jurisdictional, the Court will nevertheless grant Linehan’s IFP application.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED that the application to proceed *in forma pauperis* on appeal of petitioner Dennis D. Linehan [ECF No. 13] is GRANTED.

Dated: January 22, 2018

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Court