

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

ROBERT E. CLAYBORNE JR.,

Petitioner,

vs.

STATE OF NEBRASKA,

Respondent.

**8:15CV378**

**MEMORANDUM AND ORDER**

This matter is before the court on Petitioner's Motion for Leave to Appeal in Forma Pauperis (filing 87) and Motion for Order of Designation of Record on Appeal (filing 89). Petitioner filed a Notice of Appeal (filing 86) on January 19, 2022. Petitioner appeals from the court's Memorandum and Order dated January 10, 2022 (filing 85), in which the court denied his Motion for Relief from Judgment pursuant to Rule 60(b)(4), (6) of the Federal Rules of Civil Procedure.

As set forth in Federal Rule of Appellate Procedure 24(a)(3):

(a) Leave to Proceed in Forma Pauperis . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court--before or after the notice of appeal is filed--certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding . . . .

The court finds that because Petitioner proceeded IFP in the district court, he may now proceed on appeal in forma pauperis without further authorization.

Petitioner's Motion for Order of Designation of Record on Appeal (filing 89), brought pursuant to Rule 10(b) of the Federal Rules of Appellate Procedure, is denied as moot. Pursuant to Eighth Circuit Local Rule 30A(a)(2), "[i]n all pro se appeals, the entire district court record is available for review. If the record is available in electronic format, the [Eighth Circuit] will review the electronic version of the record." Thus, there is no need for the court to issue an order designating the record on appeal.

IT IS THEREFORE ORDERED that:

1. Petitioner's Motion for Leave to Appeal in Forma Pauperis (filing 87) is granted.
2. Petitioner's Motion for Order of Designation of Record on Appeal (filing 89) is denied as moot.

Dated this 21st day of January, 2022.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge