

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

RICKKE LEON GREEN,)	
)	
Petitioner,)	
)	
v.)	No. CIV 07-385-JHP-KEW
)	
MARTY SIRMONS, Warden,)	
)	
Respondent.)	

**OPINION AND ORDER DENYING CERTIFICATE OF APPEALABILITY
AND DENYING LEAVE TO PROCEED *IN FORMA PAUPERIS* ON APPEAL**

Petitioner has filed a notice of intent to appeal the denial of his petition for a writ of habeas corpus [Docket #46] and a motion to proceed *in forma pauperis* on appeal [Docket #50]. The court construes the notice of appeal as an application for a certificate of appealability.

After careful review of the record, the court concludes petitioner has not shown “at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether [this] court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). *See also* 28 U.S.C. § 2253(c). Therefore, petitioner is not entitled to a certificate of appealability.

To proceed on appeal *in forma pauperis*, petitioner must show that his appeal is taken in good faith and that he lacks the financial ability to pay the required fees. *See* 28 U.S.C. § 1915(a)(1) & (3); *McIntosh v. United States Parole Comm’n*, 115 F.3d 809, 812 (10th Cir. 1997). Having reviewed the record, the court finds petitioner has not presented a reasoned, nonfrivolous argument for appeal, and the appeal is not taken in good faith. Therefore, he

is not entitled to proceed on appeal without prepayment of the filing fee. Petitioner is directed to forward the \$455.00 filing fee to the Court Clerk within twenty (20) days.

IT IS FURTHER ORDERED that the Court Clerk send a copy of this order to petitioner's custodian and the trust fund officer at his institution.

ACCORDINGLY, petitioner is denied a certificate of appealability, and his motion for leave to proceed *in forma pauperis* on appeal [Docket #50] also is denied.

IT IS SO ORDERED this 8th day of June 2009.


James H. Payne
United States District Judge
Eastern District of Oklahoma