

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

ALONZO TRAYLOR,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Defendant.

§
§
§
§
§
§
§
§
§

Civil Action No. **3:23-CV-754-L**

ORDER

On May 11, 2023, the court entered an order (“Order”) (Doc. 8) and subsequent judgment (Doc. 9) that accepted the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Doc. 5), and dismissed Petitioner Alonzo Traylor’s (“Petitioner”) habeas action. In the court’s Order, it certified that should Petitioner appeal the court’s order, that appeal would not be taken in good faith.

Now before the court is a second Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 14), recommending that Petitioner’s Application to Proceed in District Court Without Paying Fees or Costs (“Application”) (Doc. 13) be denied because the court certified under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3) that the appeal is not taken in good faith. Alternatively, the Report recommends that the request be denied because Petitioner has not established that he is a pauper under 28 U.S.C. § 1915(a). Petitioner did not file objections to the Report, and the time to do so has passed.

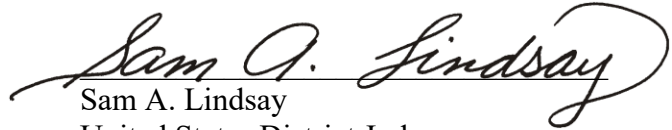
The court agrees with the magistrate judge that any appeal in this case by him would not be taken in good faith. Thus, having considered the Application to Proceed in District Court Without Paying Fees or Costs (Doc. 13), the file, record in this case, and Report, the court

determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, Petitioner's Motion to Proceed In Forma Pauperis (Doc. 32) is **denied**.

The magistrate judge previously ordered Petitioner to cure a deficiency in his Motion for Leave to Proceed *in forma pauperis* ("Motion") (Doc. 11), filed on June 2, 2023. The magistrate judge ordered Petitioner to cure deficiencies in the Motion, and he timely did so by filing the Application. Thus, the court determines that the earlier Motion is moot, and **denies** the Motion for Leave to Proceed *in forma pauperis* (Doc. 11).

Although the court has denied Petitioner's request to proceed *in forma pauperis* on appeal, he may challenge that finding by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court for the United States Court of Appeals for the Fifth Circuit within 30 days from the date of this order. *See* Fed. R. App. P. 24(a)(5).

It is so ordered this 10th day of August, 2023.


Sam A. Lindsay
United States District Judge