

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

SAKAJUST SCOTT,

Petitioner,

v.

Case No. 18-C-373

RANDALL HEPP,

Respondent.

ORDER

On January 19, 2022, this Court denied Sakajust Scott's petition for writ of habeas corpus. The Court granted Scott a certificate of appealability on his claim that his counsel's failure to seek suppression of his confession based on the anticipatory invocation of his Fifth Amendment right to counsel amounted to constitutionally deficient performance. After obtaining an extension of time to do so, Scott filed his notice of appeal on February 28, 2022, and has also requested leave to proceed on appeal *in forma pauperis*. Scott is a prison inmate without significant income and thus clearly meets the indigency requirement of a motion for leave to proceed *in forma pauperis*. Because his appeal is from the denial of a § 2254 motion, the initial partial filing fee provisions of the Prison Litigation Reform Act (PLRA) do not apply. *See Walker v. O'Brien*, 216 F.3d 626 (7th Cir. 2000) (holding that "the PLRA does not apply to any requests for collateral relief under 28 U.S.C. §§ 2241, 2254, or 2255"). Accordingly, Scott's motion for leave to proceed on appeal *in forma pauperis* will be granted. Scott has also filed a motion requesting that he be appointed counsel. However, it is the Court of Appeals, not this Court, that determines whether Scott should

be appointed counsel on appeal. Therefore, the Court will deny Scott's motion, but he should refile it with the Court of Appeals if he wishes to be represented by counsel.

IT IS THEREFORE ORDERED that Scott's motion for leave to proceed on appeal *in forma pauperis* (Dkt. No. 42) is **GRANTED**.

IT IS FURTHER ORDERED that Scott's motion to appoint counsel (Dkt. No. 45) is **DENIED**.

Dated at Green Bay, Wisconsin this 1st day of March, 2022.

s/ William C. Griesbach

William C. Griesbach
United States District Judge