

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ERROL M. WINDHOM,	:	
	:	
Petitioner	:	
	:	
VS.	:	
	:	CIVIL NO. 5:15-CV-380-MTT-CHW
Warden PHIL HALL,	:	
	:	
Respondent	:	

ORDER ON MOTION TO PROCEED *IN FORMA PAUPERIS*

Petitioner Errol M. Windom has filed a motion seeking leave to proceed *in forma pauperis* on appeal from this Court’s Order denying his Petition for Writ of Habeas Corpus. In the order challenged on appeal, however, this Court found that Petitioner failed to make a substantial showing of the denial of a constitutional right and thus denied Petitioner a certificate of appealability (“COA”). See Order, Sept. 29, 2016, ECF No. 23. When a COA is denied, an appeal may not be taken. See 28 U.S.C. § 2253(c)(2). In the same order, the Court therefore also denied Petitioner leave to appeal *in forma pauperis* on appeal, as the request is moot when an appeal may not be taken.

Having now reviewed Petitioner’s present Motion (ECF No. 26), the Notice of Appeal (ECF No. 25) and the challenged Order (ECF No. 23), the Court reaches the same conclusion and cannot find that Petitioner’s appeal is taken in good faith. See *Farley v. United States*, 354 U.S. 521 (1957) (appeal on frivolous grounds is not taken in good faith). As stated above, a certificate of appealability was denied in this case and neither

Petitioner's Notice of Appeal nor his Motion to Proceed *in forma pauperis* states an objection to this finding. In fact, Petitioner's submissions fail to identify *any* issue(s) he seeks to raise on appeal as is required by Rule 24 of the Federal Rules of Appellate procedure.¹ This alone is sufficient cause to deny leave to proceed *in forma pauperis* on appeal. See 28 U.S.C. § 1915(a)(3). See also *Rivers v. Warden, FCC Coleman*, No. 5:11-CV-413-OC-10PRL, 2014 WL 11429273, at *1 (M.D. Fla. May 13, 2014) (denying motion because petitioner "made no presentation concerning the claims of error he intends to assert on appeal or the arguments and authorities he intends to urge in support of his claims"); *McIntosh v. United States Parole Comm.*, 115 F.3d 809, 812 (10th Cir. 1997) (stating that petitioner must demonstrate the "existence of a reasoned, non-frivolous argument on the law and facts in support of the issues raised on appeal.").

Petitioner's Motion to proceed *in forma pauperis* is therefore **DENIED** as both moot and for lack of a good faith basis for appeal.

SO ORDERED, this 2nd day of November, 2016.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT

¹ "[A] party to a district-court action who desires to appeal *in forma pauperis* must file a motion in the district court" and "attach an affidavit that . . . **states the issues that the party intends to present on appeal.**" Fed. R. App. 24(a)(1) (emphasis added).