

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MARVIN B. DAVIS, JR.,

Petitioner,

v.

No. 12-3075-SAC

RAY ROBERTS and
STEVE KOBACH

Respondents.

MEMORANDUM AND ORDER

Petitioner has filed a motion for leave to appeal *in forma pauperis*. Pursuant to Federal Rule of Appellate Procedure 24(a)(3) and 28 U.S.C. § 1915(a)(3), to grant Petitioner leave to appeal *in forma pauperis*, the Court must find that Petitioner is unable to pay his filing fees and costs, and that there is "a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal." *DeBardleben v. Quinlan*, 937 F.2d 502, 505 (10th Cir. 1991). 28 U.S.C. § 2253(c) provides that "an appeal may not be taken" unless the Court grants a certificate of appealability. But this Court has previously denied a certificate of appealability, (Dk. 27), and no reason to alter that denial has been shown. Petitioner has failed to show how his appeal is taken in good faith, given the Court's denial of a certificate of appealability and the resulting statutory bar of his appeal.

Further, petitioner has failed to show that he is currently unable to pay his appellate fees or costs. The relevant statute requires a prisoner seeking to bring a civil appeal without prepayment of fees to file an affidavit and a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of the notice of appeal, obtained from the appropriate official. This latter requirement has not been met. 28 USC § 1915(a)(2).

IT IS THEREFORE ORDERED that petitioner's motion for leave to appeal *in forma pauperis* (Dk. 30) is denied.

Dated this 11th day of June, 2014, at Topeka, Kansas.

s/Sam A. Crow
Sam A. Crow, U.S. District Senior Judge