

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EDDIE JONES : CIVIL ACTION
 :
 v. :
 :
 JAMES PRICE, et al. : NO. 97-CV-4916

MEMORANDUM AND ORDER

J. M. KELLY, J.

APRIL 7, 1998

Before the Court are two motions filed by petitioner, Eddie Jones. The first motion is entitled, "Motion for Leave to Prepare and Transmit Record" (Document No. 14). The second motion is a "Motion for Leave to Appeal In Forma Pauperis" (Document No. 15). These motions relate to a Petition for Writ of Habeas Corpus that was filed by Mr. Jones. The Court notes that the petitioner has not served his opponents with a copy of Document No. 14 or Document No. 15.

The matter was referred to Magistrate Judge Arnold C. Rapoport for a Report and Recommendation. The Recommendation of Magistrate Judge Rapoport was to dismiss the Petition for Writ of Habeas Corpus for failure to exhaust state remedies. Magistrate Judge Rapoport also believed there was no probable cause to issue a Certificate of Appealability. Petitioner filed objections to the Magistrate Judge's Report. I adopted the Report and Recommendation of Magistrate Judge Rapoport.

On April 2, 1998, petitioner filed a Notice of Appeal. The docket entries indicate that on April 3, 1998, a certified copy

of the record was transmitted to the U.S. Court of Appeals.

The petitioner has filed an incomplete financial statement in support of his Motion to Proceed In Forma Pauperis in that he has failed to have the form completed by the Records Office of the prison in which he is incarcerated.¹ Accordingly, I will dismiss the motion to proceed in forma pauperis, without prejudice. The petitioner should have his financial statement completed by the Records Officer of the prison where he is incarcerated. Also, the petitioner should send a copy of the motion to his opponent, John O. J. Shellenberger, III, Esquire, Office of the Attorney General, 21 S. 12th Street, 3rd Floor, Philadelphia, PA 19107-3603.

The Court enters the following Order:

1. As the Clerk of Court has already sent a certified copy of the record to the Clerk of the Court of Appeals, petitioner's Motion for Leave to Prepare and Transmit the Record is DISMISSED as moot.

¹ 28 U.S.C. § 1915(2) provides:

A prisoner seeking to . . . appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, . . . shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the . . . notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.

2. Petitioner's Motion for Leave to Appeal In Forma Pauperis is dismissed without prejudice.

BY THE COURT:

JAMES MCGIRR KELLY, J.

2. Petitioner's Motion for Leave to Appeal In Forma Pauperis is DISMISSED without prejudice with leave for the petitioner to promptly complete his motion and to serve a copy of his motion on his opponent.

BY THE COURT:

JAMES MCGIRR KELLY, J.