

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

No. 22-12136-F

NOEL K. BANGO,

Petitioner - Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Defendant - Appellee.

Appeal from the United States District Court  
for the Southern District of Florida

ORDER:

Noel Bango moves for a certificate of appealability (“COA”) and leave to proceed on appeal *in forma pauperis* (“IFP”), in order to appeal the denial of his 28 U.S.C. § 2254 petition for writ of habeas corpus. To merit a COA, Bango must show that reasonable jurists would find debatable both (1) the merits of an underlying claim, and (2) the procedural issues that he seeks to raise. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 478 (2000). Because Bango has failed to satisfy the second prong of *Slack*’s test, his motion for a COA is DENIED, and his motion for leave to proceed on appeal IFP is DENIED AS MOOT.

/s/ Charles R. Wilson  
UNITED STATES CIRCUIT JUDGE

APPENDIX "A"

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SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Defendant - Appellee.

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Appeal from the United States District Court  
for the Southern District of Florida

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Before: WILSON and LAGOA, Circuit Judges.

BY THE COURT:

Noel Bango has filed a motion for reconsideration, pursuant to 11th Cir. R. 22-1(c) and 27-2, of this Court's December 14, 2022, order denying a certificate of appealability, and denying as moot Bango's motion for leave to proceed *in forma pauperis*, following the dismissal of his 28 U.S.C. § 2254 habeas corpus petition. Upon review, his motion for reconsideration is DENIED because he has offered no meritorious arguments to warrant relief.

APPENDIX B

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 22-80692-CV-ROSENBERG

NOEL K. BANGO,

Petitioner,

v.

RICKY D. DIXON, SECRETARY,  
FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent.

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**ORDER DENYING MOTION FOR LEAVE TO APPEAL IN FORMA PAUPERIS**

THIS CAUSE is before the Court on Petitioner Noel K. Bango's *pro se* Motion to Proceed *in Forma Pauperis* on Appeal ("IFP Motion"), docketed by the Clerk on June 28, 2022. DE 14. For the reasons set forth below, the IFP Motion is **DENIED**.

Applications to appeal *in forma pauperis* are governed by 28 U.S.C. § 1915 and Federal Rule Appellate Procedure 24. A court of the United States may authorize a party to proceed *in forma pauperis* ("IFP") upon an affidavit of indigency. *See* 28 U.S.C. § 1915(a); Fed. R. App. P. 24(a)(1). An appeal, however, "may not be taken *in forma pauperis* if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3); *accord* Fed. R. App. P. 24(a)(3)(A). A party who seeks appellate review of an issue does so in good faith if the issue is not frivolous from an objective standard. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962). An IFP application is frivolous "if it is without arguable merit either in law or fact." *Napier v. Preslicka*, 314 F.3d 528, 531 (11th Cir. 2002). Alternatively, where a claim is arguable,

Appendix 'C'

but ultimately will be unsuccessful, it should be allowed to proceed. *See Cofield v. Ala. Pub. Serv. Comm'n*, 936 F.2d 512, 515 (11th Cir. 1991).

Petitioner has filed a Notice of Appeal and IFP Motion following entry of the Court's May 13, 2022 Order dismissing his § 2254 Petition as premature. DE 13, 14. After review of the record, the Court finds there are no non-frivolous issues which Petitioner could potentially raise in an appeal. Accordingly, it is **ORDERED AND ADJUDGED** that the Petitioner's IFP Motion is **DENIED**.

**DONE AND ORDERED** in Chambers at West Palm Beach, Florida this 29th day of June, 2022.



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ROBIN L. ROSENBERG  
UNITED STATES DISTRICT JUDGE

cc:

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