

**UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT**

No: 17-2463

Kim Wade Dillon

Petitioner - Appellant

v.

Dennis Daugaard, Governor of South Dakota; Dennis Kaemingk, Secretary of Corrections;
Robert Dooley, Chief Warden of SDDOC; Marty Jackley, Attorney General of South Dakota

Respondents - Appellees

Appeal from U.S. District Court for the District of South Dakota - Pierre
(3:16-cv-03006-RAL)

JUDGMENT

Before COLLOTON, MURPHY and SHEPHERD, Circuit Judges.

This court has reviewed the original file of the United States District Court. It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a).

October 17, 2017

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Michael E. Gans

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

FILED

JUN 29 2017


CLERK

KIM WADE DILLON,

Plaintiff,

vs.

DENNIS DAUGAARD, GOVERNOR OF
SOUTH DAKOTA; DENNIS KAEMINGK,
SECRETARY OF CORRECTIONS;
ROBERT DOOLEY, CHIEF WARDEN OF
SDDOC; AND MARTY JACKLEY,
ATTORNEY GENERAL OF SOUTH
DAKOTA,

Defendants.

3:16-CV-03006-RAL

ORDER GRANTING LEAVE
TO PROCEED IN FORMA
PAUPERIS ON APPEAL AND
DENYING MOTION

Plaintiff, Kim Wade Dillon ("Dillon"), filed this lawsuit pursuant to 42 U.S.C. § 1983. Doc. 1. This Court construed his filing as a petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus, dismissed his petition, and declined to issue a certificate of appealability. Doc. 6, Doc. 7. The Court of Appeals for the Eighth Circuit also denied certificate of appealability. Doc. 18.

Ten months later, Dillon moved this Court to reconsider its judgment, Doc. 20, and this Court denied his motion. Doc. 21. Dillon filed a notice of appeal as to the motion for reconsideration. Doc. 22. He also filed a "Motion Showing Proper Procedure on the Issue of Jurisdiction." Doc. 24.

Under the Federal Rules of Appellate Procedure, "A party who was permitted to proceed in forma pauperis in the district-court action . . . may

proceed on appeal in forma pauperis without further authorization[.]” Fed. R. App. P. 24(a)(3). This rule applies to Dillon’s case because this Court construed his complaint as a habeas petition. Further, this Court has previously found that Dillon is indigent. See Doc. 16. Therefore, this Court grants Dillon leave to proceed in forma pauperis on appeal.

Dillon also filed a “Motion Showing Proper Procedure on the Issue of Jurisdiction.” Doc. 24. In this filing, Dillon raises jurisdictional issues concerning his conviction. Because he does not seek relief other than an invalidation of his conviction, the Court denies his motion.

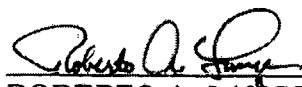
Accordingly, it is

ORDERED that this Court grants Dillon leave to proceed in forma pauperis on appeal. The appellate filing fee is waived. It is further

ORDERED that Dillon’s Motion Showing Proper Procedure on the Issue of Jurisdiction (Doc. 24) is denied.

Dated June 29th, 2017.

BY THE COURT:



ROBERTO A. LANGE
UNITED STATES DISTRICT JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**