

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

LEON DAVONNE PHILLIPS,)
)
Petitioner,)
)
VS.)
)
NATHANIEL QUARTERMAN, Director,)
Texas Department of Criminal Justice,)
Correctional Institutions Division,)
)
Respondent.)

CIVIL ACTION NO.
3:07-CV-0557-G

ECF

ORDER OF THE COURT ON THE COA RECOMMENDATION

Considering the record in this case and the magistrate judge's recommendation, and pursuant to Federal Rule of Appellate Procedure 22(b) and 28 U.S.C. § 2253 (c), the court hereby finds and orders:

IFP STATUS:

- the party appealing is **GRANTED** *in forma pauperis* status on appeal.
- the party appealing is proceeding *in forma pauperis*.
- the party appealing is **DENIED** *in forma pauperis* status on appeal for the following reasons:
 - the court certifies, pursuant to FED. R. APP. P. 24(a) and 28 U.S.C. § 1915 (a)(3), that the appeal is not taken in good faith. In support of this finding, the court adopts and incorporates by reference the magistrate judge's findings and recommendation entered in this case on November 2, 2006. Based upon the magistrate judge's findings, this court finds that the appeal

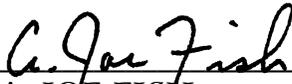
presents no legal points of arguable merit and is therefore frivolous. See *Harkins v. Roberts*, 935 F. Supp. 871, 873 (S.D. Miss. 1996) (citing *Howard v. King*, 707 F. 2d 215, 219-20 (5th Cir. 1983)).

- () the person appealing is not a pauper;
- () the person appealing has not complied with the requirements of Rule 24 of the Federal Rules of Appellate Procedure and/or 28 U.S.C. § 1915(a)(1) as ordered by the court. (See Notice of Deficiency and Order entered on _____).

COA:

- () a Certificate of Appealability is GRANTED on the following issues: _____
- (X) a Certificate of Appealability is **DENIED**. The court hereby adopts and incorporates by reference the magistrate judge's findings and recommendation filed in this case on July 2, 2008, in support of its finding that petitioner has failed to make a substantial showing of the denial of a federal constitutional right. See *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595, 1602, 146 L. Ed .2d 542 (2000).

September 11, 2008.



A. JOE FISH
Senior United States District Judge