

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 07-6296

ANTHONY PFEFFER,

Petitioner - Appellant,

versus

THOMAS MCBRIDE, Warden, Mount Olive
Correctional Complex,

Respondent - Appellee.

Appeal from the United States District Court for the Southern
District of West Virginia, at Charleston. Robert C. Chambers,
District Judge. (2:06-cv-00030)

Submitted: July 9, 2007

Decided: July 17, 2007

Before MOTZ, TRAXLER, and DUNCAN, Circuit Judges.

Vacated and remanded by unpublished per curiam opinion.

Anthony Pfeffer, Appellant Pro Se. Robert David Goldberg, OFFICE
OF THE ATTORNEY GENERAL OF WEST VIRGINIA, Charleston, West
Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Anthony Pfeffer appeals the district court's January 5, 2007 order granting him in forma pauperis status on his appeal of the denial of his 28 U.S.C. § 2254 (2000) petition, but applying the filing fee provisions of the Prisoner Litigation Reform Act, 28 U.S.C. § 1915 (2000), to Pfeffer's appeal. Subsequently, the district court entered an order on February 16, 2007, in which it granted in forma pauperis status but did not require Pfeffer to pay a filing fee to prosecute his appeal. We grant Pfeffer in forma pauperis status in his underlying appeal and vacate the district court's January 5, 2007 order. We remand with instructions that any fee collected pursuant to the January 5, 2007 order be refunded to Pfeffer. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

VACATED AND REMANDED