

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JERRY CHARLES,

Plaintiff,

v.

MATTHEW J. FRANK, JON LITSCHER,
and DICK VERHAGAN,

Defendants.

ORDER

02-C-0626-C

Judgment was entered in this action on February 26, 2004, granting defendants' motion for summary judgment and closing the case. Now plaintiff has filed a timely notice of appeal.

Because he is a prisoner, plaintiff is subject to the 1996 Prison Litigation Reform Act. This means that I must determine whether his appeal is barred because he has three strikes against him under 28 U.S.C. § 1915(g) or whether it must be certified as not having been taken in good faith. Plaintiff does not have three strikes against him, and I do not intend to certify that his appeal is not taken in good faith.

The 1996 Prison Litigation Reform Act requires also that plaintiff pay the \$255 fee

for filing his notice of appeal, beginning with an initial partial payment of the filing fee that has been calculated from a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. 28 U.S.C. § 1915(a)(2). Plaintiff has submitted the necessary trust fund account statement. His initial partial payment amounts to \$7.53.

ORDER

IT IS ORDERED that plaintiff Jerry Charles's request for leave to proceed in forma pauperis on appeal is GRANTED. Plaintiff may have until April 5, 2004, in which to submit a check or money order made payable to the clerk of court in the amount of \$7.53. If, by April 5, 2004, plaintiff fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment so that it may take whatever steps it deems appropriate with respect to this appeal.

Entered this 15th day of March, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge