

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

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BOBBY J. JOHNSON, JR.,

Plaintiff,

v.

SGT. INGUM; CAPTAIN STITCH and  
C/O BERNS,

Defendants.

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ORDER

03-C-0592-C

This case was dismissed on February 4, 2004, on defendants' motion to dismiss for plaintiff's failure to exhaust his administrative remedies as required by 42 U.S.C. § 1997e(a). Judgment was entered that same date. Subsequently, plaintiff filed a document titled "Notice of Appeal" in which he asked for instructions how to proceed with his appeal. In the notice, he advised the court that after February 10, 2004, his address would be 5402 75th St., #6, Pleasant Prairie, Wisconsin, 53140. Because plaintiff's notice was not accompanied by the \$255 fee for filing an appeal, I construed plaintiff's submission to include a request for leave to proceed on appeal in forma pauperis.

In an order dated February 18, 2004, I considered plaintiff's in forma pauperis

request. I concluded that plaintiff was not prevented from proceeding under the in forma pauperis statute either because he had three strikes against him or because his appeal was not taken in good faith. However, I could not determine whether plaintiff was financially eligible to proceed in forma pauperis, because plaintiff did not submit the trust fund account statement required under 28 U.S.C. § 1915. Therefore, I ordered that plaintiff would have until March 10, 2004, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately August 11, 2003 and ending approximately February 11, 2004. I told plaintiff that if he failed to submit the required statement by March 10, I would deny his request for leave to proceed in forma pauperis on appeal on the ground that he had failed to show that he is entitled to indigent status on appeal.

Plaintiff has not responded to this court's February 18, 2004 order. The reason is apparent. Plaintiff has not received the February 18 order, which was mailed to him at the address at which he said he could be located after February 10. Instead, the envelope and its contents have been returned to this court marked "Returned to Sender," "Attempted - Not Known."

The court has confirmed with the Wisconsin Department of Corrections that plaintiff was released from custody in February 2004. Because plaintiff did not provide the court with an address at which he could be reached following his release, I have no choice but to

deny his request for leave to proceed in forma pauperis on appeal for the reason that he has failed to show that he is entitled to indigent status on appeal.

ORDER

IT IS ORDERED that plaintiff's request for leave to proceed on appeal in forma pauperis is DENIED for plaintiff's failure to show that he is indigent.

Entered this 29th day of March, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge