

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

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CHILDERIC MAXY,

Petitioner,

ORDER

v.

03-C-623-C

KATHY LARSON, FALLEN YAUG,  
TODD FISCHER, Officers of  
the La Crosse Police Department,

Respondents.  
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Judgment of dismissal was entered in this action on February 6, 2004, after I screened petitioner's complaint pursuant to 28 U.S.C. § 1915(e)(2) and concluded that it failed to state a claim upon which relief may be granted. Petitioner then filed a timely motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59, which was denied on February 23, 2004. Now petitioner has filed a notice of appeal. Because the notice is not accompanied by the \$255 fee for filing his appeal, I construe petitioner's notice to include a request for leave to proceed on appeal in forma pauperis.

Like petitioner's request for leave to proceed in forma pauperis on his complaint, petitioner's request for leave to proceed in forma pauperis on appeal is governed by the 1996

Prison Litigation Reform Act. This means that this court must determine first whether petitioner's request must be denied either because he has three strikes against him under 28 U.S.C. § 1915(g) or because the appeal is not taken in good faith. Petitioner does not have three strikes against him, and I do not intend to certify that his appeal is not taken in good faith.

The only other hurdle to petitioner's proceeding with his appeal in forma pauperis is the requirement that he be found indigent and, if he is indigent, that he pay 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). Petitioner has not submitted the necessary trust fund account statement, but the trust fund account statement he submitted with his complaint is sufficiently recent that I will use it to calculate his initial partial payment on the \$255 fee for filing his appeal. From the trust fund statement, I calculate petitioner's initial partial payment to be \$15.56.

#### ORDER

IT IS ORDERED that petitioner Childeric Maxy's request for leave to proceed in forma pauperis on appeal is GRANTED. Petitioner may have until April 19, 2004, in which to submit a check or money order made payable to the clerk of court in the amount of

\$15.56. If, by April 19, 2004, petitioner 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 29th day of March, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge