

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

CINDY O'DONNELL, SANDRA
HAUTAMAKI, JOHN RAY,
PETER HUIBREGTSE, GERALD BERGE,
SGT. S. GRONDIN, C.O. D. ESSER,
KELLY TRUMM, C.O. JOHNSON,

Defendants.

ORDER

05-C-04-C

Judgment was entered in this case on March 3, 2006, following a jury verdict in defendants' favor. Plaintiff filed a timely motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e), which was denied on April 6, 2006. On April 6, 2006, plaintiff filed a notice of appeal, together with a request for leave to proceed in forma pauperis on appeal and a motion for preparation of transcripts at the government's expense pursuant to 28 U.S.C. § 753(f).

Plaintiff'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

plaintiff'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. 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 only other hurdle to plaintiff's proceeding with his appeal in forma pauperis is the requirement that he make an initial partial payment of the fee for filing an appeal 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 filed his appeal before April 9, 2006, so he owes only \$255. (After April 9, 2006, the cost of an appeal is \$455.) However, plaintiff has not submitted the necessary trust fund account statement. Until he does so, I cannot determine whether he is indigent and, if he is, the amount of his initial partial payment.

Upon plaintiff's submission of a trust fund account statement for the requisite period, I will decide whether he is eligible financially to proceed on appeal in forma pauperis and rule on his request for preparation of transcripts at government expense.

ORDER

IT IS ORDERED that plaintiff may have until May 3, 2006, in which to submit a certified copy of his trust fund account statement for the six-month period beginning

approximately October 6, 2005 and ending approximately April 6, 2006. If, by May 3, 2006, plaintiff fails to submit the required trust account statement or show cause for his failure to do so, then I will deny his request for leave to proceed in forma pauperis and his request for transcripts at government expense on the ground that he has failed to show that he is entitled to indigent status on appeal.

Entered this 13th day of April, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge