

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

MARVIN RHODES,

Plaintiff,

v.

ORDER

SGT. MARWITZ,

05-C-690-S

Defendants.

On March 31, 2006 judgment was entered in the above entitled matter. Because of a clerical error, this judgment should be amended to read as follows: Judgment is entered in favor of plaintiff dismissing his complaint and all claims contained therein with prejudice and costs. On April 10, 2006 plaintiff filed a notice of appeal which the Court construes as a request to proceed in forma pauperis on appeal.

 In Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997) the United States Court of Appeals discussed the determination of whether an appeal is taken in bad faith as follows:

Frivolousness is an objective inquiry; "good faith" implies a subjective standard. But judges lack access to the plaintiff's mental processes. Thoughts must be inferred from acts. A plaintiff who has been told that the claim is foreclosed and then files a notice of appeal without offering any argument to undermine the district court's conclusion is acting in bad faith.

On March 30, 2006 plaintiff was advised that in any future proceedings he must offer argument not cumulative of that already

provided to undermine this Court's conclusion that his claims must be dismissed. Plaintiff has not provided such argument. Accordingly, plaintiff's request to proceed in forma pauperis on appeal is not taken in good faith and will be denied.

ORDER

IT IS ORDERED that plaintiff's request to proceed in forma pauperis on appeal is DENIED.

Entered this 12th day of April, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge