

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

REAL PROPERTY LOCATED AT 7199
GRANT ROAD, ARPIN, WOOD COUNTY,
WISCONSIN, WITH ALL APPURTENANCES
AND IMPROVEMENTS THEREON,

Defendant.

ORDER

05-C-731-C

On November 17, 2006, I granted plaintiff's unopposed motion for summary judgment and ordered that the defendant property was properly forfeited to plaintiff for disposal in accordance with federal law. Judgment was entered on November 21, 2006. Six days later, on November 27, 2006, claimant Allen Oleson filed a brief in opposition to plaintiff's motion for summary judgment. In an order dated November 27, 2006, I told claimant Oleson that the case had been closed and that his tardy opposing materials would not be considered. On December 5, 2006, claimant moved for reconsideration of the November 27 order and for appointment of counsel. I denied that motion in an order dated

January 4, 2007. Now claimant Oleson has filed a notice of appeal. Although Oleson says that he is appealing from the January 4 order, an order deciding a motion for reconsideration of an earlier ruling ordinarily is not an appealable unless the motion is one properly filed under Fed. R. Civ. P. 59 or 60, which claimant's December 5 motion was not. Therefore, I construe claimant's notice of appeal to include notice that he intends to appeal from the judgment entered on November 21, 2006.

Claimant's notice of appeal is not accompanied by the \$455 fee for filing an appeal. Therefore, I will assume that claimant is seeking leave to proceed on appeal in forma pauperis. In an order dated August 15, 2006, I determined that claimant was indigent. Fed. R. App. P. 24 states that a party who has been permitted to proceed in forma pauperis in the district court action may proceed on appeal in forma pauperis without further authorization unless the district court certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. I do not intend to certify that claimant's appeal is not taken in good faith or find that claimant is not otherwise entitled to proceed on appeal in forma pauperis.

ORDER

IT IS ORDERED that claimant's notice of appeal is construed as including a motion for leave to proceed in forma pauperis on appeal. He is entitled so to proceed without

further authorization from this court. I do not intend to certify that his appeal is not taken in good faith or that he is not otherwise entitled to proceed in forma pauperis.

Entered this 23d day of January, 2007.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge