

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

WILLIE C. SIMPSON,

Plaintiff,

v.

DALIA SULIENE, *et al.*

Defendants.

ORDER

08-cv-54-bbc

Plaintiff Willie Simpson has filed a notice of appeal from the judgment dismissing his case entered herein on December 24, 2008. Because plaintiff appears to be aware that he is ineligible to proceed in forma pauperis on appeal because of his three-strike status, and because it is clear from the record developed in the district court that he is not in imminent danger of serious physical injury, he has not asked for leave to proceed in forma pauperis. Instead, he says that his sister will be submitting a check in the amount of \$350 to pay the fee for filing his appeal. He asks that the court notify him if the payment is not timely received. This is such a notification.

The fact that the court has not yet received a check in the amount of \$350 from plaintiff's sister is of no moment, however, because even if it had been received, it would have been returned immediately. The fee for filing an appeal is \$455, not \$350. If plaintiff is arranging for his sister to pay the filing fee for his appeal, he should advise her promptly of the correct amount. If plaintiff's sister does not pay the fee, plaintiff should be aware that he will still owe it, because he is subject to the 1996 Prison Litigation Reform Act. If payment is not made before January 27, 2009, I will notify the court of appeals of that fact so that it may take whatever action it deems appropriate with respect to plaintiff's appeal.

ORDER

IT IS ORDERED that plaintiff may have until January 27, 2009, in which to submit a check or money order made payable to the clerk of court in the amount of \$455. If, by January 27, 2009, plaintiff fails to make the payment or show cause for his failure to do so, I will notify the court of appeals of his non-compliance so that it may take whatever action it deems appropriate with respect to his appeal.

Further, IT IS ORDERED that the clerk insure that plaintiff's obligation to pay the \$455 fee for filing his appeal is recorded in this court's financial records.

Entered this 15th day of January, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge