

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

JONATHAN MCCORD,

Petitioner,

v.

DEPUTY KING of the Dane County Sheriff's
Office, in his official and individual capacities,

Respondent.

ORDER

08-cv-121-bbc

On March 10, 2008 I denied petitioner's request for leave to proceed in forma pauperis in this case because he had not paid the amount he owed in another case, case no. 05-C-68-C. I ordered that until petitioner shows that he has paid the amount he is in arrears, he may not apply for leave to proceed in forma pauperis in this or any future action in which he is subject to the 1996 Prison Litigation Reform Act except under the exception permitted under 28 U.S.C. § 1915(g). Now petitioner has filed a notice of appeal. Because he has not paid the \$455 fee for filing an appeal, I presume he wishes to proceed in forma pauperis.

A district court has authority to deny a request for leave to proceed in forma pauperis

on appeal under 28 U.S.C. § 1915 for one or more of the following reasons: the plaintiff has not established indigence, § 1915(a)(1); the appeal is in bad faith, § 1915(3); or the plaintiff is a prisoner and has earned three strikes, § 1915(g). Sperow v. Melvin, 153 F.3d 780 (7th Cir. 1998). As I told petitioner in the March 10, 2008 order, nonpayment of obligations a prisoner incurs under the Prisoner Litigation Reform Act for any reason other than destitution is treated as though the prisoner has forfeited his right to file future suits and appeals in forma pauperis, just as if the prisoner had struck out under 28 U.S.C. § 1915(g). Thurman v. Gramley, 97 F.3d 185, 188 (7th Cir. 1996). Therefore, for the same reason petitioner was not permitted to proceed in forma pauperis on his underlying action in this case, he may not proceed in forma pauperis on appeal.

If plaintiff intends to challenge this court's denial of his request to proceed in forma pauperis on appeal, he has 30 days from the date he receives this order in which to file with the court of appeals a motion for leave to proceed in forma pauperis on appeal. His motion must be accompanied by a copy of the affidavit prescribed in the first paragraph of Fed. R. App. P. 24(a) and a copy of this order.

ORDER

IT IS ORDERED that plaintiff's request for leave to proceed in forma pauperis on appeal is DENIED because he is to be treated as though he has struck out under 28 U.S.C.

§ 1915(a) until he has paid the debt he owes in case no. 05-C-68-C.

Entered this 9th day of April, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge