

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

DANIEL RYAN CURRY,

Plaintiff,

v.

SGT. REED TREFZ and
CAPTAIN DAVID GARDNER,

Defendants.

ORDER

11-cv-223-slc

Judgment was entered in this case on September 12, 2012 granting defendants' motion for summary judgment and closing this case. On December 27, 2012, I denied plaintiff's motion to alter or amend judgment, which was filed on October 12, 2012. Now before the court is plaintiff's notice of appeal. Because plaintiff has not paid the \$455 filing fee for filing an appeal, I will construe his notice of appeal as a request to proceed *in forma pauperis* on appeal.

Plaintiff's request 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.

However, plaintiff is required to make an initial partial payment of the filing fee 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). I cannot tell whether plaintiff qualifies for indigent status on appeal because he has not submitted a trust fund account statement. Therefore, I will stay a decision on plaintiff's request for leave to proceed *in forma pauperis* pending his submission of the necessary trust fund account statement.

ORDER

IT IS ORDERED that a decision whether plaintiff Daniel Curry may proceed *in forma pauperis* on appeal is STAYED. Plaintiff may have until January 23, 2013 in which to submit a trust fund account statement for the six-month period beginning approximately April 12, 2012 and ending approximately October 12, 2012. If, by January 23, 2013, plaintiff fails to submit the necessary trust fund account statement, I will deny his request for leave to proceed *in forma pauperis* on appeal for his failure to show that he is entitled to indigent status on appeal.

Entered this 3rd day of January, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge