

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

JEFFREY D. LEISER,

Plaintiff,

v.

BELINDA SCHRUBBE, R.N., *et al.*,

Defendants.

ORDER

11-cv-254-slc

Plaintiff Jeffrey D. Leiser filed this prisoner civil rights case under 42 U.S.C. § 1983, alleging that he was denied adequate medical care, or that treatment was delayed, for chronic back pain, among other things. After a week-long trial, a jury returned a verdict in favor of the defendants on November 16, 2012.

Leiser has filed a notice of appeal from an order entered on March 29, 2013, denying his motion for new trial based in part on unsupported allegations of juror misconduct. Leiser requests leave to proceed without prepayment of the appellate docketing fee. That motion will be denied at this time because Leiser neglected to include a certified copy of his inmate trust fund account statement as required by 28 U.S.C. § 1915(a)(2).

In addition, Leiser requests a court order compelling defendants to identify the correctional officers who transported him to and from federal court during his trial in November 2012. Leiser seeks this information in an effort to bolster his unsubstantiated assertion—which was the subject of his motion for new trial—that a member of the jury slept through a portion of the testimony.

The court understands and lauds Leiser’s wish to put forth “his best” effort to ensure that he received a fair trial. But this particular train has left the station: I already have found, based on my direct observations and clear recollection of the trial, that “no jurors slept during trial” which led me also to find that “Leiser’s contention to the contrary is incorrect.” *Order Denying*

Motion for New Trial, Dkt. 143, at 3. Any statement from a correctional officer assigned to watch Leiser that the officer believes he saw a juror dozing would not cause me to doubt my own observation of the same juror, and therefore could not change my conclusion that Leiser received a fair trial. Therefore, the post-trial discovery sought by Leiser is unnecessary because it cannot lead to the result desired by Leiser.

ORDER

It is ORDERED that:

1. Plaintiff Jeffrey D. Leiser's motion for leave to proceed *in forma pauperis* on appeal, dkt. 145, is DENIED at this time. The court will reconsider this motion if Leiser submits **by June 14, 2013** a certified copy of his inmate trust fund account statement in compliance with 28 U.S.C. § 1915(a)(2).
2. Leiser's motion to compel post-trial discovery (the "Petition for Court Order"), Dkt. 151, is DENIED.

Entered this 15th day of May, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge