

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

JAMAR ALLEN,

Plaintiff,

v.

SGT. WILLIAM MEILLER and
NURSE JANE DOE,

Defendants.

ORDER

12-cv-094-slc

On September 19, 2012, this case was dismissed without prejudice for plaintiff Jamar Allen's failure to exhaust his administrative remedies, as required by 42 U.S.C. § 1997(e)(a). Now before the court is plaintiff's notice of appeal. Because plaintiff has not paid the \$455 fee for filing an appeal, I construe his notice as a request for leave to proceed *in forma pauperis* on appeal.

A district court has authority to deny a request for leave to proceed *in forma pauperis* on appeal under 28 U.S.C. § 1915 only 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). Plaintiff is no longer a prisoner, so the three strikes provision in § 1915 does not apply to him. Furthermore, I do not intend to certify that plaintiff's appeal is not taken in good faith. However, I cannot determine whether plaintiff qualifies for indigent status on appeal because he has not submitted an affidavit of indigency in support of his request for pauper status.

Because plaintiff has not established his indigence, a decision on his request for leave to proceed *in forma pauperis* on appeal will be stayed pending his submission of a completed form for an affidavit of indigency, a copy of which is enclosed to him with this order.

ORDER

IT IS ORDERED that plaintiff Jamar Allen's request for leave to proceed *in forma pauperis* on appeal is STAYED. Plaintiff may have until November 5, 2012 to complete and return to the court the enclosed affidavit of indigency. If, by November 5, 2012, plaintiff fails to submit an affidavit of indigency showing that he qualifies to proceed *in forma pauperis*, I will deny the request for his failure to establish his indigence.

Entered this 11th day of October, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN**

Jamar Allen
Full name of plaintiff(s)

Case No. 12-cv-094-slc
(Provided by the clerk of court)

v.

William Meiller, et al.,
Full name of defendant(s)

**PETITION AND AFFIDAVIT TO PROCEED
WITHOUT PREPAYMENT OF FEES AND/OR COSTS**

I, _____ declare that I am the plaintiff or petitioner in the above-named action. In support of my request to proceed in forma pauperis, I declare that I am unable to pay the fees and/or costs of these proceedings and that I am entitled to the relief sought in the complaint/petition/motion. I answer the following questions truthfully and under penalty of perjury (additional pages may be added, if necessary, to provide complete information):

I. Personal Information

1) Are you currently incarcerated? ☐ Yes ☐ No

If “No,” go to question 2. Complete all sections.

If “Yes,” answer questions (a), (b) & (c), skip to Section IV. Complete sections IV and V.

(a) State the place of your incarceration and provide your prisoner identification number:

(place)

(number)

(b) Are you employed at the institution? ☐ Yes ☐ No

(c) Do you receive any payment from the institution? ☐ Yes ☐ No

If you are a prisoner, attach a printout of your prison trust account statement showing transactions for the six-month period immediately preceding the filing of your complaint, motion, or petition and showing the balance of your release account. Prisoners who are permitted to file in forma pauperis must pay the full filing fee in installments.

Personal Information - continued

2) Are you employed? ☐ Yes ☐ No

3) Are you currently married? ☐ Yes ☐ No

If "Yes," is your spouse employed? ☐ Yes ☐ No

4) Do you have any legal dependents (children/adults) whom you are responsible for supporting?

☐ Yes ☐ No

If "Yes," list them below:

<u>First and Last Initials (For Minor Children</u> <u>Only) or Name</u> <u>Provided</u>	<u>Relationship to You</u>	<u>Age</u>	<u>Amount of Support</u> <u>Per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

II. Income - If you are married, your answers ***must include your spouse's income.***

(When calculating income, you must include any salary, child support, public assistance, unemployment compensation, disability payments, life insurance payments, pensions, annuities, workers' compensation, stock dividends and interest, gifts, and inheritance, or other incoming monies.)

State your total *monthly* income? \$ _____

Provide the name of your employer(s): _____

State your spouse's total *monthly* income? \$ _____

State the amount of money you have received from any other source in the last twelve months (e.g., rent payments, pension or insurance payments, gifts, inheritance, disability or workers' compensation payments). Please attach an additional sheet if necessary.

<u>Source of income</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____

III. Expenses - If you are married and/or have dependents, ***your expenses should also include your household's expenses.***

(When calculating household expenses, you may include groceries, clothing, medical costs, utilities which are not included in your rental payments, transportation, and insurance.)

1) Identify the following amounts that you pay per month:

☐ Rent or ☐ Mortgage \$ _____

Car payment(s) \$ _____

Alimony and/or court-ordered child support \$ _____

Credit card payment(s) \$ _____

2) Do you have any other monthly expenses that you have not already identified?

☐ Yes ☐ No

If "Yes," list them below:

<u>Expense</u>	<u>Amount</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

3) What is the total amount of your monthly expenses? \$ _____

IV. Property - If you are married, your answers must ***include your spouse's property.***

) Do you own a car? ☐ Yes ☐ No If "Yes," list car(s) below:

<u>Make and Model</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your residence(s)? ☐ Yes ☐ No

If "Yes," state the approximate value(s). \$ _____

What is the amount of equity (assessed value of residence minus outstanding mortgage balance) in the residence(s)? \$ _____

IV. Property - continued

3) Do you own any other valuable tangible property, including but not limited to, jewelry, artwork, or antiques? ☐ Yes ☐ No

If "Yes," identify the property and approximate value(s).

<u>Property</u>	<u>Approximate Value</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

4) Do you have any cash or checking, savings, or other similar accounts? ☐ Yes ☐ No

If "Yes," state the total amount of such sums. \$ _____

5) Do you own any intangible property, including but not limited to real estate, stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401 k)?
 ☐ Yes ☐ No

If "Yes," state the nature of that property and approximate value(s).

V. Other Circumstances - Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.

Date

Signature - Signed Under Penalty of Perjury