

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

TONY PAYANO,

Plaintiff,

v.

THOMAS L. POTTER and
GREGORY GRAMS,

Defendants.

ORDER

12-cv-889-bbc

In an order dated September 4, 2013, the Court of Appeals for the Seventh Circuit determined that this court erred in certifying that plaintiff's appeal was filed in bad faith. The court of appeals instructed this court to assess an initial partial payment of the \$455 appeal fee. From the trust fund account statement plaintiff submitted at the court of appeals, I find that plaintiff owes \$64.00 as an initial partial payment of the fee for filing his appeal.

If plaintiff does not have the money to make the initial partial appeal payments in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. The only amount plaintiff must pay at this time is the \$64.00 initial partial appeal payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff should show a copy of this

order to prison officials to make sure they are aware they should send plaintiff's initial partial appeal payment to this court.

ORDER

IT IS ORDERED that no later than October 2, 2013, plaintiff is to submit to this court a check or money order, made payable to the clerk of court, in the amount of \$64.00 as an initial partial payment of the \$455 fee for filing his appeal. Plaintiff is reminded that the remainder of the fee is to be paid in monthly installments pursuant to 28 U.S.C. § 1915(b)(2).

Further, IT IS ORDERED that if, by October 2, 2013, plaintiff fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment so that it may take whatever steps it deems appropriate with respect to this appeal. If plaintiff pays the initial partial payment as directed, however, the clerk of court must notify the court of appeals promptly in accordance with that court's September 4 order.

Entered this 16th day of September, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge