

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

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SAMUEL MYLES,

ORDER

Plaintiff,

14-cv-661-bbc

v.

RAVI GUPTA and UNITED STATES,

Defendants.

- - - - -

On April 22, 2016, judgment was entered in this case, granting defendants' motions for summary judgment and dismissing this case. Plaintiff Samuel Myles filed two separate notices of appeal, dkt. ##136 and 159, which prompted the Court of Appeals for the Seventh Circuit to open two separate appellate cases, Appeal Nos. 16-1992 and 16-2695. Plaintiff has since paid the filing fee associated with the first appeal, No. 16-1992, but the second appeal, No. 16-2695, remains suspended pending notification that any necessary filing fee has been assessed and paid.

With respect to plaintiff's second (and likely superfluous) appeal, plaintiff has not paid the necessary filing fee and has not sought leave to proceed in forma pauperis in this appeal. To the extent plaintiff is seeking leave to proceed in forma pauperis in his second appeal, this request is denied for the same reason that his request to proceed in forma pauperis was denied for his first appeal. Plaintiff has struck out under 28 U.S.C. § 1915(g),

and is not eligible to proceed in forma pauperis on appeal. If for some reason plaintiff wishes to simultaneously pursue two separate appeals related to the same case, plaintiff will need to pay another \$505 filing fee for the second appeal, Appeal No. 16-2695. If plaintiff only wants to pursue Appeal No. 16-1992, he should inform the Court of Appeals that he wishes to dismiss the second appeal.

Plaintiff may delay his payment on his second appeal if he challenges this court's decision to deny his request for leave to proceed in forma pauperis on appeal because of his § 1915(g) status. Fed. R. App. P. 24(a)(5). Such a challenge must be filed within 30 days of this order. If the court of appeals decides that it was improper to apply the three-strikes bar against plaintiff in this case, then the matter will be remanded to this court for a determination whether plaintiff's appeal is taken in good faith. If the court of appeals determines that this court was correct in finding that § 1915(g) bars him from taking his appeal in forma pauperis, the \$505 filing fee payment will be due in full immediately. Whatever the scenario, plaintiff is responsible for insuring that the required sum is remitted to the court at the appropriate time.

ORDER

IT IS ORDERED that plaintiff Samuel Myles's request for leave to proceed in forma pauperis on his second appeal is DENIED. The clerk of court is requested to insure that

plaintiff's obligation to pay the \$505 is reflected in this court's financial records.

Entered this 22d day of July, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge