

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

LENROY BROWN,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER
99-C-400-C

On August 21, 2000, judgment was entered in this case granting defendant's motion for summary judgment and closing the case. Plaintiff has filed a notice of appeal which is not accompanied by the \$105 filing fee. Therefore, I construe the notice to include a request for leave to proceed on appeal in forma pauperis.

Because plaintiff is a prisoner, his request for leave to proceed in forma pauperis on appeal is governed by the 1996 Prison Litigation Reform Act. This means that the district 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.

The only other hurdle to plaintiff's proceeding with his appeal in forma pauperis is the requirement that he be found indigent and, if he is indigent, that he pay 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). Plaintiff has not submitted the necessary trust fund account statement.

Accordingly, IT IS ORDERED that plaintiff may have until September 29, 2000, in which to submit a certified copy of his trust fund account statement for the period beginning approximately February 21, 2000 to approximately August 21, 2000. If, by September 29, 2000, plaintiff fails to submit the required statement or show cause for his failure to do so, then I will deny plaintiff's request for leave to proceed in forma pauperis on appeal on the ground that he has failed to show that he is entitled to indigent status.

Entered this 31st day of August, 2000.

BY THE COURT:

BARBARA B. CRABB
District Judge