

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

SAMUEL J. TRINIDAD,

Petitioner,

ORDER
99-C-299-C

V.

GARY R. McAUGHTRY, Waupun
Correctional Institution,
JON E. LITSCHER, Wisconsin Department
of Corrections,
PETER HUIBREGTSE, CAPTAIN MURASKI,
M. GLAMMAN, DAVID HAUTAMAKI,
and W. SCHULTZ,

Respondents.

Judgment was entered in this case on October 31, 2000, denying petitioner's request for leave to proceed in forma pauperis on his Fourteenth Amendment procedural due process claim for petitioner's failure to state a claim upon which relief may be granted, and dismissing this action. Petitioner filed a timely notice of appeal, which I construed to include a request for leave to proceed on appeal in forma pauperis. In an order entered on December 6, 2000, I

found that petitioner was not barred from proceeding in forma pauperis either because he has three strikes against him or because his appeal is not taken in good faith. I noted, however, that before petitioner could proceed further with his appeal, he would have to show that he was indigent and if he is indigent, pay an initial partial payment of the \$105 fee for filing his appeal as required by 28 U.S.C. § 1915. Now petitioner has submitted a trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. From the statement, I conclude that petitioner qualifies for indigent status. Further, I calculate his initial partial payment of the filing fee to be \$34.18.

Accordingly, IT IS ORDERED that petitioner's request for leave to proceed on appeal in forma pauperis is GRANTED. Petitioner may have until January 19, 2001, in which to submit a check or money order made payable to the Clerk of Court in the amount of \$34.18 as his initial partial payment of the fee for filing his appeal. The remainder of the \$105 fee must be paid in monthly installments pursuant to 28 U.S.C. § 1915(b)(2). If, by January 19, 2001, petitioner fails to pay the initial partial payment ordered above, I will notify the court of appeals so that it may take whatever action it deems appropriate with

respect to petitioner's appeal.

Entered this 26th day of December, 2000.

BY THE COURT:

BARBARA B. CRABB
District Judge