

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. Now petitioner has filed a notice of appeal. Because the notice is not accompanied by the \$105 fee for filing his appeal, I construe petitioner's notice to include a request for leave

to proceed on appeal in forma pauperis.

Petitioner's request for leave to proceed in forma pauperis on appeal is governed by the 1995 Prison Litigation Reform Act. This means that this court must determine first whether petitioner'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. Petitioner 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 petitioner'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). Petitioner has not submitted the necessary trust fund account statement.

Accordingly, IT IS ORDERED that petitioner may have until December 27, 2000, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately May 28, 2000 to approximately November 28, 2000. If, by December 27, 2000, petitioner fails to submit the required statement or show cause for his failure to do so, then I will deny petitioner'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 on appeal.

Entered this 6th day of December, 2000.

BY THE COURT:

BARBARA B. CRABB
District Judge