

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

DENNIS E. JONES 'EL, MICHA'EL
JOHNSON, DE'ONDRE CONQUEST,
LUIS NIEVES, SCOTT SEAL, ALEX
FIGUEROA, ROBERT SALLIE, CHAD
GOETSCH, EDWARD PISCITELLO,
QUINTIN L'MINGGIO, LORENZO
BALLI, DONALD BROWN, CHRISTOPHER
SCARVER, BENJAMIN BIESE, LASHAWN
LOGAN, JASON PAGLIARINI, and
ANDREW COLLETTE, and
all others similarly situated,

Plaintiffs,

v.

GERALD BERGE and
JON LITSCHER,

Defendants.

ORDER

00-C-421-C

On February 6, 2003, I denied plaintiff Evelio Duarte-Vestar's request for leave to proceed in forma pauperis on appeal because I concluded that his appeal was not taken in good faith. On March 4, 2003, in response to plaintiff's motion to reconsider the February 6 order, I advised plaintiff that his failure to challenge within 30 days this court's denial of

his request for leave to proceed in forma pauperis on appeal ends the process *unless* he can persuade the court of appeals to allow him to file an untimely motion to proceed in forma pauperis under Fed. R. App. P. 24(a)(5).

Now plaintiff has filed another notice of appeal dated March 4, 2003, which likely crossed in the mail with this court's March 4 order. To reiterate what I told plaintiff in the March 4 order, if plaintiff wishes to persuade the court of appeals to allow him to file an untimely motion to proceed in forma pauperis on appeal, he must file a motion with the court of appeals, not another notice of appeal with this court.

Accordingly, IT IS ORDERED that plaintiff Evelio Duarte-Vestar's second request for leave to proceed on appeal in forma pauperis on appeal is DENIED as moot.

Entered this 11th day of March, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge