

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

GARY R. McCAUGHTRY,

Defendant.

ORDER

01-C-209-C

Judgment was entered in this case on October 8, 2003, granting defendants' motion for summary judgment and closing this case. Plaintiff filed a timely motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e), which was denied in an order entered on October 29, 2003. Now plaintiff has filed a notice of appeal. Because the notice is not accompanied by the \$255 fee for filing his appeal, I construe plaintiff's notice to include a request for leave to proceed on appeal in forma pauperis.

Plaintiff's request for leave to proceed in forma pauperis on appeal is governed by the 1996 Prison Litigation Reform Act. This means that this 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 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 December 12, 2003, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately May 20, 2003 to approximately November 20, 2003. If, by December 12, 2003, plaintiff fails to submit the required trust fund account statement, or show cause for his failure to do so, then I will deny his 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 24th day of November, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge