

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

ALGENONE WILLIAMS,

Plaintiff,

ORDER

v.

02-C-0010-C

GERALD BERGE, in his
individual and official capacity,

Defendant.

Judgment was entered in this case on January 23, 2003, granting defendant's motion for summary judgment and closing the case. Plaintiff has filed a timely notice of appeal. Because the notice is not accompanied by the \$105 fee for filing his appeal, I construe plaintiff's notice to include a request for leave to proceed on appeal in forma pauperis.

Like plaintiff's request for leave to proceed in forma pauperis on his complaint, 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 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 submitted the necessary trust fund account statement in connection with an appeal he filed on January 30, 2003 in another of his cases, Williams v. Lomen, 02-C-70-C. From the trust statement, I calculate plaintiff's initial partial payment to be \$2.79.

ORDER

IT IS ORDERED that plaintiff Algenone Williams's request for leave to proceed in forma pauperis on appeal is GRANTED. Plaintiff may have until March 10, 2003, in which to submit a check or money order made payable to the clerk of court in the amount of \$2.79. If, by March 10, 2003, plaintiff fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the

assessment so that it may take whatever steps it deems appropriate with respect to this appeal.

Entered this 19th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge