

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

SCOTT A. HEIMERMANN,

Petitioner,

v.

JON E. LITSCHER, MICHAEL J.
SULLIVAN, CINDY O'DONNELL,
STEPHEN M. PUCKETT, STEVEN
B. CASPERSON, CLEO ASHWORTH,
TIMOTHY DOUMA, PHILIP KINGSTON,
JOHN DEHAAN and JOHN DOE and
RICHARD ROE,

Respondents.

MEMORANDUM

02-C-411-C

In an order dated August 30, 2002, I denied petitioner's request for leave to proceed in forma pauperis in this action on the ground that he is not eligible for pauper status by virtue of 28 U.S.C. § 1915(g), the Prison Litigation Reform Act's three strikes provision. I concluded that petitioner had accumulated too many strikes under § 1915(g) for filing frivolous lawsuits and that his proposed complaint made it clear that he could not take advantage of § 1915(g)'s escape clause for indigent litigants "under imminent danger of serious physical injury." This decision was upheld by the Court of Appeals for the Seventh

Circuit on July 18, 2003. Heimermann v. Litscher, 2003 WL 21674194, 7th Cir. July 18, 2003. Now petitioner has written to ask whether he may proceed if he pays the required filing fee. The answer is no.

After this action was closed on October 15, 2002, the Court of Appeals for the Seventh Circuit entered an order in another case involving plaintiff, Heimermann v. McCaughtry, No. 02-4033 (February 4, 2003), imposing a \$5000 fine on petitioner and ordering that until he pays the fine, any papers submitted on his behalf will be returned unfiled with the exception of criminal cases and habeas corpus petitions not challenging his 1991 Wisconsin murder conviction. Petitioner has not made a showing that he has paid the \$5000 fine imposed upon him and this action involves his 1991 Wisconsin murder conviction. Accordingly, petitioner's submissions in connection with this action cannot be filed or considered, even if petitioner were to pay the filing fee.

Entered this 30th day of July, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge