

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

NATHANIEL ALLEN LINDELL,

Plaintiff,

v.

STEVEN CASPERSON, MATTHEW FRANK,
JON E. LITSCHER, LAURA WOOD,
GERALD BERGE, PETER HUIBREGTSE,
GARY BOUGHTON, VICKI SEBASTIAN,
CPT. TIMOTHY HAINES, LINDA HODDY,
CINDY O'DONNELL, LT. GARDINER,
JULIE BIGGAR, SGT. HANKE, TODD OVERBO,
SANDRA GRONDIN, JOANNE GOUIERE (JANE DOE),
MIKE VANDERLOH, RON KOPLITZ, ELLEN RAY,
GARY McCAUGHTRY, MARC CLEMENTS,
DEBRA TETZLAFF, CPT. STEVE SCHUELER,
C.O. WATSON, CHAPLAIN FRANCIS,
BYRON BARTOW, KATHLEEN BELLAIRE,
and STEVE SPANBAUER,

Defendants.

ORDER

02-C-473-C

Plaintiff has filed a notice of appeal from the judgment entered in this action on May 12, 2005, and has moved for leave to proceed 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. From the statement, I conclude that he qualifies for indigent status and that he presently has no means with which to pay an initial partial payment of the \$255 fee for filing his appeal. Nevertheless, plaintiff should be aware that he is obligated to pay the \$255 filing fee, even if he does not presently have funds with which to do so. His account will be monitored and the fee must be taken in monthly installments when the funds exist.

Also, plaintiff asks that a copy of the transcript of the trial proceedings in this case be produced and sent to the court of appeals for its consideration in connection with his appeal. Without access to a trial transcript, it will be extremely difficult for the court of appeals to assess plaintiff's arguments on appeal. Therefore, plaintiff's motion for

preparation of the trial transcript at government expense pursuant to 28 U.S.C. §753(f) will be granted.

ORDER

IT IS ORDERED that plaintiff's motion for leave to proceed in forma pauperis on appeal is GRANTED.

Further, IT IS ORDERED that a transcript of the proceedings in the trial of this case be prepared and furnished to the plaintiff, with the fees therefor to be paid by the United States, pursuant to 28 U.S.C. §753(f).¹

Entered this 17th day of June, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge

¹Opening and closing statements, and the jury selection process are not ordinarily included as a part of the trial transcript unless the appellant makes a showing that these aspects of the trial are subject to legally meritorious attack on appeal. Plaintiff has made no such showing in this case. Nor will the trial transcript include jury instructions, since a printed copy of the instructions is in the court's record.