

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

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BRENTFORD TAYLOR,

Petitioner,

MEMORANDUM

v.

02-C-0548-C

PHYILLIS J. DUBE, in her official and individual capacity; JON E. LITSCHER, in his official and individual capacity; BYRON BARTOW, in his official and individual capacity; MARIO CANZIANI, in his official and individual capacity; KELLY ZAREMBR, in her official and individual capacity; MICHELLE COOPER, in her official and individual capacity; DAM SMITHBACK, in his official and individual capacity; and SARAH CORCORAN in her official and individual capacity,

Respondents.  
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Petitioner has traveled an unusual and muddled course following entry of the November 21, 2002 judgment of dismissal of this legally frivolous action. On November 26, 2002, petitioner filed a notice of appeal from the judgment and requested leave to proceed on appeal in forma pauperis. I denied the request in an order dated November 27, 2002,

and certified that the appeal was not taken in good faith. Petitioner then filed a proposed amended complaint and asked for permission to withdraw his appeal from the court of appeals. In a memorandum dated December 9, 2002, I told petitioner it was too late for him to amend his complaint and that in any event, his appeal divested this court of jurisdiction to consider anything more relating to the merits of his case. I told him that if he still wished to withdraw his appeal knowing that he would not be allowed to amend his complaint in this court, he would have to make the request directly to the court of appeals. Apparently, petitioner did exactly that. On December 11, 2002, the court of appeals dismissed petitioner's appeal at petitioner's request.

Meanwhile, petitioner filed in this court a notice of appeal from the December 9, 2002 memorandum. In an order dated December 19, 2002, I denied petitioner leave to proceed in forma pauperis with this appeal because it was legally frivolous and I certified that the appeal was not taken in good faith.

Now petitioner has filed a document titled "notice of appeal," which is a repeat of the appeal he filed originally, challenging the November 21, 2002 order of dismissal and judgment. I believe this filing represents petitioner's attempt to reinstate his original appeal, and that it would be harsh and unkind to treat the filing as a new appeal, given petitioner's status as a prisoner at the Wisconsin Resource Center and his obvious inability to grasp proper procedure. Petitioner has floundered through each stage of the proceedings in this

court. He has no money in his prison account to pay \$134.11 to cover the remainder of the fee he owes for filing his original complaint or to pay the two \$105 filing fees he owes for his first appeal from the November 21 order and his appeal from the December 9 memorandum. He cannot have understood that simply titling his recent submission as a notice of appeal might subject him to another \$105 filing fee.

Accordingly, I am forwarding petitioner's "Notice of Appeal" docketed in this court on December 30, 2002, directly to the court of appeals and am requesting, respectfully, that the submission be construed as a motion for reinstatement of appeal no. 02-4135, which was dismissed at petitioner's request by the court of appeals on December 11, 2002.

Entered this 31st day of December, 2002.

BY THE COURT:

BARBARA B. CRABB  
District Judge