

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

- - - - -

BERRELL FREEMAN,

Plaintiff,

ORDER

v.

03-C-0021-C

GERALD BERGE, Warden, in his official
and individual capacities; PETER HUIBREGTSE,
Deputy Warden, in his individual capacity,
GARY BOUGHTON, Security Director, in his
individual capacity; JOHN SHARPE, Unit
Manager (former), in his individual capacity; and
GRAD HOMPE, Unit Manager, in his individual
capacity,

Defendants.

- - - - -

An amended judgment was entered in this case on May 19, 2005, vacating the judgment entered herein on December 30, 2004, and granting judgment in favor of all of the defendants. Subsequently, on May 23, 2005, plaintiff Berrell Freeman, who is represented in this case by appointed counsel, filed a notice of appeal and a request for leave to proceed in forma pauperis on appeal. Although plaintiff's notice and request were docketed by the clerk of court, they will be disregarded. As I informed plaintiff at the time I appointed

counsel to represent him, he may not communicate directly with the court about matters pertaining to his case. He must work directly with his lawyers and permit them to exercise their professional judgment to determine which matters are appropriate to bring to the court's attention and in what form.

On June 20, 2005, counsel for plaintiff filed a notice of appeal on plaintiff's behalf and paid the full filing fee. Although counsel has not requested 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 plaintiff's appeal, I construe the notice to include such a request. Plaintiff qualifies for indigent status in connection with this case. Without access to a trial transcript, it will be extremely difficult for the court of appeals to assess adequately plaintiff's arguments on appeal. Therefore, it appears to be in the interest of justice to grant plaintiff's request for preparation of the trial transcript at government expense pursuant to 28 U.S.C. §§753(f) and 1915(c).

Accordingly, 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) and 28 U.S.C. § 1915(c).¹

Entered this 22nd day of June, 2005.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge

¹Opening and closing statements, the jury selection process and jury instructions are not 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.