

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

EUGENE CHERRY,

Plaintiff,

v.

MATTHEW FRANK, GERALD BERGE,
PETER HUIBREGTSE, GARY BOUGHTON,
BRAD HOMPE, JOAN GERL,
SGT. C. HANEY, THOMAS BELZ and
HENRY BRAY,

Defendants.

ORDER

03-C-129-C

Plaintiff has filed a notice of appeal from the judgment entered herein on January 15, 2004. He requests leave to proceed in forma pauperis.

A district court has authority to deny a prisoner's request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 only for one or more of the following reasons: the prisoner has not established indigence, the appeal is in bad faith, the prisoner has three strikes. § 1915(a)(1),(2) and(3), (g). Sperow v. Melvin, 153 F.3d 780 (7th Cir 1998). Plaintiff does not have three strikes and Judge Crabb does not intend to certify that his appeal is not taken in good faith.

From petitioner's trust fund account statement, it appears that petitioner presently has no means with which to pay an initial partial payment of the \$255 fee for filing his appeal. However, petitioner should be aware that he is obligated to pay the \$255 filing fee, even if he does not presently have funds with which to pay the fee. His account will be monitored and the fee must be taken in monthly installments when the funds exist.

Accordingly, IT IS ORDERED that petitioner's request for leave to proceed in forma pauperis on appeal is GRANTED.

Entered this 26th day of January, 2004.

BY THE COURT:

STEPHEN L. CROCKER
Magistrate Judge