

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

BOBBY J. JOHNSON, JR.,

Plaintiff,

v.

SGT. INGUM; CAPTAIN STITCH and
C/O BERNS,

Defendants.

ORDER

03-C-0592-C

Judgment was entered in this case on February 4, 2004, following entry of an order also dated February 4, 2004, in which I granted defendants' motion to dismiss for plaintiff's failure to exhaust his administrative remedies as required by 42 U.S.C. § 1997e(a). Now plaintiff has filed a notice of appeal. Because the notice is not accompanied by the \$255 fee for filing his appeal, I construe plaintiff's notice to include a request for leave to proceed on appeal in forma pauperis.

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 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 not submitted the necessary trust fund account statement.

Accordingly, IT IS ORDERED that plaintiff may have until March 10, 2004, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately August 11, 2003 to February 11, 2004. If, by March 10, 2004, plaintiff fails to submit the required trust account statement or affidavit of indigency, or show cause for his failure to do so, then I will deny his request for leave to proceed in forma

pauperis on the ground that he has failed to show that he is entitled to indigent status on appeal.

Entered this 18th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge