

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

-----  
TITUS HENDERSON,

Plaintiff,

v.

DAVID BELFUEIL,

Defendant.

-----

ORDER

03-C-729-C

Judgment was entered in this case on August 25, 2005, following a jury verdict in defendant's favor. 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 is governed by the 1996 Prison Litigation Reform Act. This means that this court must determine first whether the request must be denied either because plaintiff 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. Moreover, although he has not specified precisely what issues he intends to raise on appeal, I am aware from having conducted the trial in this matter that plaintiff may be seeking to object to certain

rulings that I made leading up to and during the course of trial. I cannot certify that an appeal from these decisions would be taken in bad 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. Until he does so, I cannot determine whether he is indigent and, if he is, the amount of his initial partial payment.

Accordingly, IT IS ORDERED that plaintiff may have until September 29, 2005, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately March 6, 2005 to approximately September 6, 2005. If, by September 29, 2005, plaintiff fails to submit the required trust account statement 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 8th day of September, 2005.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge