

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

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GREGORY PATMYTHES,

Plaintiff,

v.

THE CITY OF JANESVILLE,

Defendant.  
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ORDER

04-C-367-C

Plaintiff Gregory Patmythes has filed a notice of appeal from the judgment entered in this action on June 15, 2005. Although he paid the fee for filing his complaint in this court, he requests pauper status on appeal.

A district court has authority to deny a request for leave to proceed in forma pauperis on appeal under 28 U.S.C. § 1915 only for one or more of the following reasons: the plaintiff has not established indigence, § 1915(a)(1), the appeal is in bad faith, § 1915(3); or the plaintiff is a prisoner and has earned three strikes, § 1915(g). Sperow v. Melvin, 153 F.3d 780 (7th Cir 1998). Plaintiff is not a prisoner, so the three strikes provision in § 1915 does not apply to him. Furthermore, I do not intend to certify that plaintiff's appeal is not taken in good faith. However, I cannot determine whether plaintiff qualifies for indigent

status on appeal because he has not submitted an affidavit of indigency in support of his request for pauper status. He merely makes unsworn statements that he earns too little and pays too much for his living costs to be able to pay the \$255 fee for filing his notice of appeal.

Because plaintiff has not established his indigence, a decision on his request for leave to proceed in forma pauperis on appeal will be stayed pending his submission of a completed form for an affidavit of indigency, a copy of which is enclosed to him with this order.

#### ORDER

IT IS ORDERED that plaintiff Gregory Patmythes's request for leave to proceed in forma pauperis on appeal is STAYED until August 2, 2005.

Further, IT IS ORDERED that no later than August 2, 2005, plaintiff is to complete and return to the court the enclosed form for an affidavit of indigency. If, by August 2, 2005, plaintiff fails to submit an affidavit of indigency showing that he qualifies to proceed in forma pauperis, I will deny the request for his failure to establish his indigence.

Entered this 18th day of July, 2005.

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