

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

JOSEPH D. KOUTNIK,

Plaintiff,

v.

LEBBEUS BROWN, GERALD BERGE,
and MATTHEW J. FRANK,

Defendants.

ORDER

04-C-580-C

Judgment was entered in this action on June 22, 2005, following a grant of defendants' motion for summary judgment. Now plaintiff has filed a notice of appeal postmarked July 21, 2005. Because plaintiff is a prisoner, he is subject to the 1996 Prison Litigation Reform Act. This means that I must determine whether his appeal is barred because he has three strikes against him under 28 U.S.C. § 1915(g) or whether it must be certified as not having been 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 1996 Prison Litigation Reform Act requires also that plaintiff pay the \$255 fee for filing his notice of appeal, beginning with an initial partial payment 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 submitted the necessary trust fund account statement. From the statement, I conclude that he qualifies for indigent status, and that he must pay an initial partial payment to the clerk of this court in the amount of \$2.46.

ORDER

IT IS ORDERED that plaintiff Joseph Koutnik may have until August 18, 2005, in which to submit a check or money order made payable to the Clerk of Court in the amount of \$2.46 as an initial partial payment of the fee for filing his appeal. The remainder of the \$255 fee must be paid in monthly installments according to 28 U.S.C. § 1915(b)(2).

If, by August 18, 2005, plaintiff fails to pay the initial partial payment, I will notify the court of appeals so that it may take whatever action it deems appropriate with respect to this appeal.

Entered this 2nd day of August, 2005.

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