

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

MICHAEL HILL,

Plaintiff,

ORDER

v.

04-C-732-C

GARY THALACKER, GREGORY
GOODHUE, MICHAEL BARTKNECHT,
TERRY CARD and JOHN SHOOK,

Defendants.

In an opinion and order entered in this case on November 15, 2005, I granted plaintiff's request to dismiss voluntarily and without prejudice his claims against defendants Goodhue, Bartknecht, Card and Shook because plaintiff conceded that he had failed to exhaust his administrative remedies with respect to his claims against them. In addition, I granted defendant Gary Thalacker's motion for summary judgment on plaintiff's claim that Thalacker had discriminated against plaintiff on the basis of his race. Judgment closing this case was entered that same day. Now plaintiff has filed a notice of appeal from the judgment. Because plaintiff's notice is not accompanied by the \$255 fee for filing an appeal, I construe the notice to include a request for leave to proceed in forma pauperis.

Because plaintiff is a prisoner, his 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. 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 February 21, 2006, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately August 1, 2005 to approximately February 1, 2006. If, by February 21, 2006, 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 26th day of January, 2006.

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