

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

FREDERICK ROGERS,

Plaintiff,

v.

C.O. HERWIG and
MATTHEW FRANK,

Defendants.

ORDER

04-C-977-C

FREDERICK ROGERS,

Plaintiff,

v.

C.O. SCHEFFER,

Defendant.

04-C-979-C

On October 5, 2006, I entered an order in these cases, noting that plaintiff had filed a confusing notice of appeal which appeared to be intended for filing in either case no. 04-C-977-C or case no. 04-C-979-C. In particular, I noted that the caption of plaintiff's notice named C.O. Herwig as the lead defendant, suggesting that plaintiff intended his appeal to

be filed in case no. 04-C-977-C. However, plaintiff wrote case no. 04-C-979-C as the number of the case being appealed. Even more confusing, plaintiff indicated that he was appealing from a judgment purportedly entered on June 2006, when the judgments in both case no. 04-C-977-C and 04-C-979-C had been entered considerably earlier. In light of the confusion, I instructed plaintiff to advise this court no later than October 25, 2006, in which of his cases he wished his notice of appeal filed. In addition, I noted that plaintiff had not paid the fee for filing an appeal and, therefore, appeared to be seeking leave to proceed on appeal in forma pauperis. I construed the notice as including a request for pauper status on appeal and reserved a ruling on the matter pending plaintiff's submission of a trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal.

Plaintiff has not responded to this court's October 5 order. A review of the file and the court's docket sheet reveals the probable reason why. At the time he filed his notice of appeal, plaintiff showed his return address as the Racine Correctional Institution in Sturtevant, Wisconsin. The court's docket sheet (from which mailing labels are generated) shows plaintiff's address as the Rock County jail in Janesville, Wisconsin in case no. 04-C-977-C and Fox Lake Correctional Institution in Fox Lake, Wisconsin in case no. 04-C-979-C. Even if the court's order was mailed to plaintiff at both of these locations, it is possible the mail was not forwarded to plaintiff at his current address.

Because plaintiff may well have not received this court's October 5 order, I am sending another copy to him with a copy of this order. In this order, I will extend the deadline within which plaintiff is to identify the case in which he wishes his appeal filed and submit a trust fund account statement.

ORDER

IT IS ORDERED that plaintiff may have an enlargement of time to November 27, 2006, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately April 6, 2006 and ending approximately October 6, 2006. In addition, he may have until November 27, 2006, in which to advise the court which of his cases he wishes to appeal. If, November 27, 2006, plaintiff fails to submit the required trust fund 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. If plaintiff fails to indicate which of his cases

he wishes to appeal, I will direct the clerk of court to file the notice in case no. 04-C-977-C, which concerns the parties plaintiff has named in his notice of appeal.

Entered this 6th day of November, 2006.

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