

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

JONATHON M. MARK,

Plaintiff,

ORDER

v.

05-C-279-C

Off. GUSTAFSON; Sgt. McARTHER; Lt. DOHMS;
Unit Manager DOUGHERTY; Mr. BROWN (head
of PRC); STEPHEN M. PUCKETT,

Defendants.

Judgment was entered in this case on August 31, 2006, granting defendants' motion for summary judgment and closing this case. Plaintiff filed a timely motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e), which was denied on September 20, 2006. Now plaintiff has filed a notice of appeal. (Plaintiff filed his notice directly with the court of appeals on October 19, 2006; it was forwarded to this court for further action in accordance with Fed. R. App. P. 4(d)). Because plaintiff's notice is not accompanied by the \$455 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 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 November 27, 2006, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately April 19, 2006 to approximately October 19, 2006. If, November 27, 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 6th day of November, 2006.

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