

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

---

DUNCAN J. McNEIL, III,

Petitioner,

v.

UNITED STATES AND ITS  
OFFICERS AND AGENCIES;  
CLERK, U.S. DISTRICT COURT,  
W.D. WI; CLERK, U.S. BANKRUPTCY  
COURT, W.D. WI; U.S. ATTORNEY,  
W.D. WI; OFFICE OF U.S. TRUSTEE,  
W.D. WI; U.S. MARSHAL SERVICE,  
W.D. WI; FBI, W.D. WI; IRS, W.D. WI;  
SECRET SERVICE, W.D. WI; and their  
officers,

Respondents.

---

ORDER

05-C-400-C

This case was closed on September 12, 2005, after petitioner failed to pay the \$250 fee for filing his complaint following a finding that he was ineligible for pauper status under 28 U.S.C. § 1915(g). Now petitioner has filed a notice of appeal and a request for leave to proceed in forma pauperis on appeal.

As I told petitioner in the order denying him leave to proceed in forma pauperis in

this court, because he has accumulated three strikes, so long as he is incarcerated he cannot file any new lawsuit or an appeal without prepaying the filing fee unless he can show that he is in imminent danger of serious physical injury. 28 U.S.C. § 1915(g). Petitioner has not made the required showing of imminent danger of a serious physical injury in this case. Therefore, he cannot take advantage of the initial partial payment provision of § 1915. He owes the \$255 appellate filing fee in full immediately.

From the trust fund account statement petitioner filed with his notice of appeal, it appears that he does not presently have any money in his prison account or the means to pay a filing fee. Nevertheless, prison officials will be required to monitor petitioner's account and collect monthly payments according to the formula set out in 28 U.S.C. § 1915(b)(2) if and when such funds do exist.

#### ORDER

IT IS ORDERED that petitioner's request for leave to proceed in forma pauperis on

appeal is DENIED because three strikes have been recorded against petitioner under 28 U.S.C. § 1915(g).

Entered this 2nd day of November, 2005.

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