

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

-----  
VINCENT L. AMMONS,

Plaintiff,

v.

DR. DEBB LEMKE,  
DR. BRUCE GERLINGER,  
RENEE ANDERSON,  
BECKY DRESSLER and  
RITA ERICSON,

Defendants.  
-----

ORDER

06-C-20-C

On July 16, 2007, judgment was entered dismissing this case in its entirety following a decision on defendants' motion for summary judgment. Now plaintiff Vincent Ammons has filed a notice of appeal and a "motion to modify the record on appeal." The motion to modify the record on appeal will be denied as unnecessary. Because plaintiff's notice of appeal is not accompanied by the \$455 fee for filing an appeal, it will be construed to include a request for leave to proceed in forma pauperis on appeal, and a decision on that request will be stayed pending plaintiff's submission of a trust fund account statement for

the six-month period immediately preceding the filing of his notice of appeal, as required by 28 U.S.C. § 1915(a)(2).

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.

With respect to plaintiff's request that the record on appeal include copies of his motions for extensions of time to effect service of process on defendants Gerlinger and Lemke, those documents will be included in the record on appeal as a matter of course. Therefore, plaintiff's motion will be denied as unnecessary.

ORDER

IT IS ORDERED that a decision whether plaintiff may appeal in forma pauperis is STAYED until September 8, 2007, by which time plaintiff must submit a certified copy of his trust fund account statement for the six-month period beginning approximately February 13, 2007 to approximately August 13, 2007. If, by September 8, 2007, 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.

Further, IT IS ORDERED that plaintiff's motion to modify the record on appeal to include his motions for an enlargement of time to effect service of process on defendant Bruce Gerlinger dated October 1, 2006, and his motion for an enlargement of time to effect service of process on defendant Lemke dated December 4, 2006 is DENIED as unnecessary.

Entered this 17th day of August, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge