

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

BRIAN LOCKE,

Plaintiff,

v.

ORDER

ANDREW BISSONETTE
and STEVEN BAUER,

07-C-89-S

Defendants.

On February 22, 2007 judgment was entered in the above entitled matter dismissing plaintiff's complaint and all claims contained therein for lack of subject matter jurisdiction. On March 2, 2007 plaintiff's motion for reconsideration was denied. On March 6, 2007 plaintiff filed a notice of appeal which the Court construes as a request to proceed in forma pauperis on appeal.

____ In Newlin v. Helman, 123 F.3d 429, 433 (7th Cir. 1997) the United States Court of Appeals discussed the determination of whether an appeal is taken in bad faith as follows:

Frivolousness is an objective inquiry; "good faith" implies a subjective standard. But judges lack access to the plaintiff's mental processes. Thoughts must be inferred from acts. A plaintiff who has been told that the claim is foreclosed and then files a notice of appeal without offering any argument to undermine the district court's conclusion is acting in bad faith.

Plaintiff has not offered any argument not cumulative of that already provided to undermine this Court's conclusion that his

complaint must be dismissed for lack of subject matter jurisdiction. Accordingly, plaintiff's request to proceed in forma pauperis on appeal is not taken in good faith and will be denied.

ORDER

IT IS ORDERED that plaintiff's request to proceed in forma pauperis on appeal is DENIED.

Entered this 7th day of March, 2007.

BY THE COURT:

/s/

JOHN C. SHABAZ
District Judge