

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

DARRICK P. JORDAN, #307484,

Plaintiff,

v.

Sgt. LAVERNE PRICE (Correctional Officer,
CVCTF), PAM WALLACE (Warden, CVCTF),

Defendants.

ORDER

08-cv-757-bbc

On May 27, 2009, judgment was entered against plaintiff Darrick Jordan in this case without prejudice for his failure to prosecute the action. On July 20, 2010, I denied plaintiff's motion for reconsideration of the court's June 8, 2010 order denying his motion for relief from judgment because he had already filed a notice of appeal. The only motion that remains is plaintiff's June 28, 2010 motion asking the court to correct the June 24, 2010 order construing his notice of appeal as including a motion to proceed in forma pauperis. As plaintiff points out, in that order I mistakenly stated that this case was dismissed with prejudice. I will deny plaintiff's motion to correct the order as unnecessary because that statement does not alter the May 27, 2009 judgment dismissing the case

without prejudice. Plaintiff remains free to refile the case. Because in his motion, plaintiff requests a copy of his complaint, a blank complaint form and a petition for leave to proceed in forma pauperis, I will include those items with this order.

Finally, plaintiff asks whether his \$455 appellate filing fee is refundable in the event that he prevails, and if it is not, what the procedure is for waiving his notice of appeal. Unfortunately for plaintiff, the \$455 appellate filing fee is not refundable. He will owe the fee whether he wins or loses his appeal. He should address any questions he has about withdrawing his appeal to the Court of Appeals for the Seventh Circuit.

ORDER

IT IS ORDERED that plaintiff Darrick Jordan's motion to correct the June 24, 2010 order in this case, dkt. #28, is DENIED as unnecessary.

Entered this 21st day of July, 2010.

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