

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

WILLIE C. SIMPSON,

Plaintiff,

v.

CYNTHIA THORPE and DR. COX,

Defendants.

ORDER

09-cv-532-bbc

As directed in this court's order of March 28, 2011, plaintiff Willie Simpson has submitted a copy of his trust fund account statement so that a determination may be made whether he is indigent for the purpose of proceeding on appeal in forma pauperis and if he is, what amount must be assessed under the 1996 Prison Litigation Reform Act as an initial partial payment of the fee for filing his appeal. In the March 28 order, I found that plaintiff's appeal is not taken in bad faith and that because plaintiff continues to allege that he is in imminent danger of serious physical injury that plaintiff is not barred by the three strikes provision of 28 U.S.C. § 1915(g) from proceeding with his appeal in forma pauperis.

From plaintiff's trust fund account statement, I conclude that he qualifies for indigent status. Further, I assess plaintiff an initial partial payment of the \$455 fee for filing his

appeal in the amount of \$3.32.

If plaintiff does not have the money to make the initial partial appeal payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. The only amount plaintiff must pay at this time is the \$3.32 initial partial appeal payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff should show a copy of this order to prison officials to make sure that they are aware they should send plaintiff's initial partial appeal payment to this court.

ORDER

IT IS ORDERED that plaintiff Willie Simpson's request for leave to proceed in forma pauperis on appeal is GRANTED. Plaintiff may have until May 6, 2011, in which to submit a check or money order made payable to the clerk of court in the amount of \$3.32. If, by May 6, 2011, plaintiff fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment so that it may take whatever steps it deems appropriate with respect to this appeal.

Further, the clerk of court is requested to insure that the court's financial records reflect plaintiff's obligation to pay the \$3.32 initial partial payment and the remainder of the

\$455 fee in monthly installments.

Entered this 15th day of April, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge