

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

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RALPHFIELD HUDSON,

Plaintiff,

OPINION and ORDER

v.

10-cv-478-bbc

J. PENAFLORE,

Defendant.

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Judgment was entered in this case on March 21, 2011 in favor of defendant, dismissing this case without prejudice after I found that plaintiff had failed to exhaust his available administrative remedies. Now plaintiff has filed a notice of appeal. Because plaintiff has not paid the \$455 fee for filing an appeal, I construe his notice as a request for leave to proceed in forma pauperis on appeal.

Plaintiff's request 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.

However, I cannot tell whether plaintiff qualifies for indigent status on appeal because he has not submitted a trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. Therefore, I will stay a decision on plaintiff's request for leave to proceed in forma pauperis pending his submission of the necessary trust fund account statement.

ORDER

IT IS ORDERED that a decision whether plaintiff Ralphfield Hudson may proceed in forma pauperis on appeal is STAYED. Plaintiff may have until May 5, 2011 in which to submit a trust fund account statement for the six-month period beginning approximately October 12, 2010 and ending approximately April 12, 2011. If, by May 5, 2011, petitioner fails to submit the necessary trust fund account statement, I will deny his request for leave to proceed in forma pauperis on appeal for his failure to show that he is entitled to indigent status on appeal.

Entered this 14th day of April, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge