

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

RANDY RINDAHL,

Plaintiff,

OPINION and ORDER

v.

11-cv-121-slc

DAUGAARD, TIM RIESCH, D. WEBER, D. SLYKHUS,
O. SPURRELL, T. PONTO, DR. REGIER, FANTROY,
DITTMONSON, WOODWARD, LINNIWEBER,
VAN VORNE, J. MILLER, RODOSKY, ROSHIEM,
J. SPURRELL, JOHNSON, LARSON, S. KAYLA,
ED LIGHTENBERG, MULLIN, G. TAYLOR,
DURREN HOLLINGSWORTH and D. YOUNG,

Defendants.

RANDY RINDAHL,

Plaintiff,

OPINION and ORDER

v.

11-cv-122-slc

DAUGAARD, TIM RIESCH, D. WEBER, D. SLYKHUS,
T. PONTO, VAN VORNE, LINNIWEBER, BAKER,
J. MILLER, DITTMONSON, M. WAAGMEERSTER,
J. OAKLEY, S. SPURRELL, TERMEER, WILLIAMS,
BEAVER, D. YOUNG, JOHNSON, ANDERSEN,
ANDREW E. COOPERMAN, KAYLA TINKER,
DR. RIGIER JEFF LUTHER and DUREEN HOLLINGSWORTH,

Defendants.

Plaintiff Randy Rindahl, a prisoner incarcerated in the South Dakota state prison system, brought these two proposed actions alleging that the governor of South Dakota and various South Dakota Department of Corrections employees had violated his rights in numerous ways. In a September 13, 2011 order, I transferred these cases to the United States District Court for the District of South Dakota after concluding that this court could not exercise personal jurisdiction over defendants. Now plaintiff has filed a motion for reconsideration and notice of appeal in both cases.

I will deny plaintiff's motion for reconsideration because he fails to provide any argument or evidence suggesting that I erred in transferring the cases. Plaintiff argues first that this court could have exercised personal jurisdiction over defendants because both South Dakota and Wisconsin have signed onto the "Inmate Interstate Compact," which allows the states to "trade inmates." However, this argument is underdeveloped; plaintiff does not explain whether he was transferred from Wisconsin to South Dakota or whether any of the named defendants had any contacts with the state of Wisconsin. Accordingly, he fails to show any basis for this court exercising personal jurisdiction over defendants. Kinslow v. Pullara, 538 F.3d 687, 693 (7th Cir. 2008) (plaintiff inmate failed to show defendants' contacts with state from which he was transferred under Interstate Corrections Compact).

Also, plaintiff submits a letter indicating that the Court of Appeals for the Eighth Circuit has received his judicial complaint against a magistrate judge at the District Court for the District of South Dakota. However, I have already rejected plaintiff's argument that this court can hear his cases because of alleged judicial misconduct in the South Dakota

district court. As I stated in the September 13, 2011 order, “If plaintiff believes that a judge cannot hear his cases in a fair and unbiased fashion, he is free to file a motion for disqualification of that judge.” Dkt. #29.

Turning to plaintiff’s notice of appeal of the September 13, 2011 transfer order, I note that such an order is interlocutory in nature. E.g., Hill v. Potter, 352 F.3d 1142, 1144 (7th Cir. 2003). Therefore, I understand plaintiff to be asking for certification that he can take an interlocutory appeal of each case under 28 U.S.C. §1292(b).

28 U.S.C. § 1292(b) states in relevant part,

When a district judge, in making in a civil action an order not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he shall so state in writing in such order.

There is not a substantial ground for a difference of opinion on the question whether this court may exercise personal jurisdiction over defendants, nor will immediate appeals from the order materially advance the ultimate termination of the cases. Therefore, I will deny plaintiff’s request for certification that he can take interlocutory appeals from the September 13, 2011 order.

Nevertheless, plaintiff’s filing of a notice of appeal in each case triggers a financial obligation: he owes \$455 fee for each appeal. Plaintiff has submitted a request to proceed in forma pauperis on appeal. A district court has authority to deny a request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 for one or more of the following reasons:

the litigant wishing to take an appeal has not established indigence, the appeal is in bad faith or the litigant is a prisoner and has three strikes. § 1915(a)(1),(3) and (g). Sperow v. Melvin, 153 F.3d 780, 781 (7th Cir. 1998). I will deny plaintiff's request because I certify that his appeals from an unappealable non-final order are not taken in good faith.

Because I am certifying plaintiff's appeals as not having been taken in good faith, he cannot proceed with his appeals without prepaying the \$455 filing fee for each appeal unless the court of appeals gives him permission to do so. Under Fed. R. App. P. 24, he has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. With his motion, he must include an affidavit as described in the first paragraph of Fed. R. App. P. 24(a), with a statement of issues he intends to argue on appeal. Also, he must send along a copy of this order. Plaintiff should be aware that he must file these documents in addition to the notice of appeal he has filed previously. If he does not file a motion requesting review of this order, the court of appeals may choose not to address the denial of leave to proceed in forma pauperis on appeal. Instead, it may require him to pay the full \$455 filing fees before it considers his appeals. If he does not pay the fees within the deadline set, it is possible that the court of appeals will dismiss the appeals.

ORDER

IT IS ORDERED that

1. Plaintiff Randy Rindahl's motion for reconsideration of the court's September 13, 2011 order transferring these cases, dkt. #29, is DENIED.

2. Plaintiff's motion for the court to certify that an interlocutory appeal may be taken from the September 13, 2011 order, dkt. #34 is DENIED.

2. Plaintiff's request for leave to proceed in forma pauperis on appeal, dkt. #34, is DENIED. The clerk of court is directed to insure that plaintiff's obligation to pay the \$455 fee for filing each appeal is reflected in the court's financial records.

Entered this 8th day of November, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge