

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

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JOSE R. PADILLA,

Plaintiff,

v.

DALIA SULIENE,

Defendant.

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ORDER

11-cv-425-bbc

As directed in this court's order of July 26, 2012, plaintiff Jose Padilla has submitted a certified 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 July 26 order, I found that plaintiff's appeal is not taken in bad faith and that he 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 \$17.73.

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 \$17.73 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 they are aware they should send plaintiff's initial partial appeal payment to this court.

Finally, plaintiff has also filed a motion for appointment of counsel on appeal. Plaintiff's motion is not properly raised in this court. If he wishes to have appointed counsel on appeal, he will have to make his request directly to the Court of Appeals for the Seventh Circuit.

#### ORDER

IT IS ORDERED that

1. Plaintiff Jose Padilla's motion for appointment of counsel on appeal, dkt. #88, is DENIED without prejudice to his refiling it with the Court of Appeals.

2. Plaintiff's request for leave to proceed in forma pauperis on appeal, dkt. #87, is GRANTED. Plaintiff may have until August 30, 2012, in which to submit a check or money order made payable to the clerk of court in the amount of \$17.73. If, by August 30, 2012, 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.

3. The clerk of court is requested to insure that the court's financial records reflect plaintiff's obligation to pay the \$17.73 initial partial payment and the remainder of the \$455 fee in monthly installments.

Entered this 9th day of August, 2012.

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