

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

DANIEL MITCHELL,

Plaintiff,

ORDER

v.

11-cv-279-wmc

JAKE KRUEGER and
THOMAS CICHA,

Defendants,

On September 30, 2013, the court granted summary judgment in favor of defendants Jake Krueger and Thomas Cicha, and dismissed the prisoner civil rights complaint filed by plaintiff Daniel Mitchell. Plaintiff filed a motion to alter or amend judgment, which the court denied on March 14, 2014. Now, plaintiff has filed a notice of appeal and a motion for leave to proceed *in forma pauperis*. (Dkt. # 22). For reasons set forth briefly below, the court will grant that motion.

As an initial matter, the federal *in forma pauperis* statutes require a district court to certify whether an appeal is “not taken in good faith” or that the party is “not otherwise entitled to proceed” as an indigent litigant. FED. R. APP. P. 24(a)(3). The court has carefully reviewed all pertinent matters in this civil action. Based on this review, it does not appear that plaintiff has filed his appeal in bad faith for purposes of Fed. R. App. P. 24(a)(3).

The court notes further that plaintiff has no “strikes” or sanctions against him for engaging in frivolous litigation while in prison, *see* 28 U.S.C. § 1915(g), and there does

not appear to be any other impediment to indigent status. Therefore, after considering plaintiff's motion and supporting documentation, which includes a certified copy of his inmate trust fund account statement, the court concludes that plaintiff is eligible to proceed as an indigent litigant.

Although plaintiff has been found eligible to proceed *in forma pauperis*, the PLRA requires indigent inmates to pay the full amount of the docketing fee for his notice of appeal (\$455) in increments, starting with an initial partial payment, pursuant to the formula found in 28 U.S.C. § 1915(b)(1)-(2). Based on plaintiff's inmate trust fund account statement, the court is able to make an initial partial filing fee payment of \$56.52, which will be due no later than May 14, 2014. Thereafter, plaintiff shall pay the remainder of the \$505 appellate docketing fee in monthly installments according to 28 U.S.C. § 1915(b)(2).

ORDER

IT IS ORDERED that:

1. Having found that the notice of appeal is not taken in bad faith for purposes of Fed. R. App. P. 24(a)(3) and that he is otherwise eligible to proceed as an indigent litigant, plaintiff Daniel Mitchell's motion for leave to proceed *in forma pauperis* on appeal (Dkt. # 22) is GRANTED.
2. No later than May 14, 2014, plaintiff shall submit a check or money order made payable to the Clerk of Court in the amount of \$56.52 as an initial partial payment of the appellate docketing fee for his appeal. Thereafter,

plaintiff shall pay the remainder of the \$505 appellate docketing fee in monthly installments according to 28 U.S.C. § 1915(b)(2).

3. Plaintiff is advised that if fails to make his initial partial fee payment as directed by May 14, 2014, his appeal may be dismissed without further notice.

Entered this 22nd day of April, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge