

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

MUSTAFA-EL K.A. AJALA
formerly known as Dennis E. Jones-El,

Plaintiff,

ORDER

13-cv-638-bbc
App. No. 16-1523

v.

WILLIAM SWIEKATOWSKI,

Defendant.

On August 25, 2015, a jury rendered a verdict in favor of defendant William Swiekatowski, dkt. #149. Judgment was entered the following day, dkt. #150. On September 28, 2015, plaintiff Mustafa-El Ajala, formerly known as Dennis Jones-El, filed a motion for relief from judgment and request for a new trial. Dkt. #154. On February 5, 2016, I denied the motion for a new trial. Dkt. #158. On March 9, 2016, plaintiff filed a notice of appeal, dkt. #159, and as directed by this court's March 15, 2016 order, he submitted a certified trust fund account statement to support his request for leave 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 taken in bad faith or the litigant is a prisoner and has three strikes. 28 U.S.C. § 1915(a)(1),(3) and (g); *Sperow v. Melvin*, 153 F.3d 780, 781 (7th Cir. 1998). After considering plaintiff's request and supporting documentation, I conclude that plaintiff has established his indigence. Further, plaintiff does not have three strikes against him and I do not intend to certify that his appeal is not taken in good faith. Therefore, I conclude that he is eligible to proceed in forma pauperis.

Under 28 U.S.C. § 1915(b)(1)-(2), indigent inmates are required to pay the full amount of the \$505 docketing fee for a notice of appeal in increments, starting with an initial partial payment. From my review of plaintiff's inmate trust fund account statement, I find that he is able to make an initial partial payment of \$38.78, which will be due no later than April 20, 2016. Thereafter, plaintiff shall pay the remainder of the \$505 appellate docketing fee for each case in monthly installments in accordance with 28 U.S.C. § 1915(b)(2).

ORDER

IT IS ORDERED that the request of plaintiff Mustafa-El Ajala, formerly known as Dennis Jones-El, to proceed without prepayment of the \$505.00 appeal fee is GRANTED. Plaintiff may have until April 20, 2016, in which to submit a check or money order made

payable to the clerk of court in the amount of \$38.78. If, by April 20, plaintiff fails to pay the initial partial appeal payment, or show cause for failure to do so, then I will advise the court of appeals of plaintiff's 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 \$38.78 initial partial appeal payment and the remainder of the \$505.00 appeal fee for this case.

Entered this 31st day of March, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge