

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

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TOMMIE CARTER,

Plaintiff,

v.

JOLINDA J. WATERMAN,

Defendant.

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ORDER

13-cv-742-bbc

TOMMIE CARTER,

Plaintiff,

v.

SANDRA M. ASHTON,  
RYAN P. ARMSON, TRACY R.  
KOPFHAMER, MIKE A. MORRISON,  
JASEN B. MILLER, JOSEPH W.  
CICHONIWICZ, TROY HERMANS,  
CRAIG A. TOM and PHILIP J. KERCH,

Defendants.

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ORDER

14-cv-399-bbc

Judgment was entered in this case on February 2, 2016 in favor of defendants,  
dismissing these cases with prejudice as a sanction for plaintiff Tommie Carter's falsification

of evidence and false accusations against officials that they had engaged in violent and criminal behavior. Now plaintiff has filed a notice of appeal. Because plaintiff has not paid the \$505 fee for filing an appeal in each case, I construe his notice as a 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. § 1915(a)(1),(3) and (g). *Sperow v. Melvin*, 153 F.3d 780, 781 (7th Cir. 1998). Plaintiff does not have three strikes against him and I do not intend to certify that his appeal is not taken in good faith because plaintiff could make the argument on appeal that dismissal of this case was not an appropriate sanction. Therefore, after considering plaintiff's request and supporting documentation, which includes a certified copy of his inmate trust fund account statement filed in plaintiff's most recent cases (case nos. 16-cv-54-bbc and 16-cv-55-bbc), I conclude 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 (\$505) in increments, starting with an initial partial payment, pursuant to the formula found in 28 U.S.C. § 1915(b)(1)-(2). From my review of plaintiff's inmate trust fund account

statement, I find that plaintiff is able to make an initial partial filing fee payment of \$1.39 for each case. This amount is due no later than March 9, 2016. Thereafter, plaintiff shall pay the remainder of the \$505 appellate docketing fee for each case in monthly installments according to 28 U.S.C. § 1915(b)(2).

#### ORDER

IT IS ORDERED that plaintiff Tommie Carter's request to proceed without prepayment of the \$505.00 appeal fee in each case is GRANTED. Plaintiff may have until March 9, 2016, in which to submit a check or money order made payable to the clerk of court in the amount \$1.39 for each case, Carter v. Waterman, 14-cv-742, and Carter v. Ashton, 14-cv-399. If, by March 9, plaintiff has failed to pay the initial partial appeal payments, or shown cause for his failure to do so, I will advise the court of appeals of plaintiff's noncompliance in paying the assessments so that it may take whatever steps it deems appropriate with respect to these appeals.

Further, the clerk of court is requested to insure that the court's financial records reflect plaintiff's obligation to pay the \$1.39 initial partial appeal payment and the

remainder of the \$505.00 appeal fee for each case.

Dated this 19th day of February, 2016.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge