

United States Court of Appeals
For the Eighth Circuit

No. 16-3856

Samuel E. Haley

Plaintiff - Appellant

v.

United States Government; Deborah Leff, US DOJ Pardon Attorney; Marie
Rustin, US Parole Commissioner

Defendants - Appellees

Appeal from United States District Court
for the Western District of Missouri - Jefferson City

Submitted: January 31, 2017
Filed: February 8, 2017
[Unpublished]

Before COLLOTON, ARNOLD, and GRUENDER, Circuit Judges.

PER CURIAM.

Samuel E. Haley appeals after the district court denied him leave to proceed in forma pauperis (IFP) in his civil rights action, based on 28 U.S.C. § 1915(g) (three-strikes rule), and dismissed his complaint. Mr. Haley is not subject to the restrictions of section 1915(g), because his filings in the district court and in this court reflect that

he was released from incarceration in August 2014, he was living in a transitional housing facility, and he was not a prisoner at the time he filed his complaint and his notice of appeal to this court. See 28 U.S.C. § 1915(h) (as used in this section, “prisoner” means--as relevant--any person incarcerated in any facility, who is convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or terms or conditions of parole, probation, or pretrial release); Owens v. Isaac, 487 F.3d 561, 563 (8th Cir. 2007) (per curiam) (reviewing de novo district court’s interpretation and application of § 1915(g)).

We therefore grant Mr. Haley’s motion to proceed IFP in this court, we vacate the district court’s denial of IFP and dismissal of Mr. Haley’s complaint, and we remand to the district court for further proceedings consistent with this opinion. We deny the pending motion for appointment of counsel.
