

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS**

Eric L. Kelly	)	
(44893-424),	)	
	)	
Plaintiff,	)	Case No: 14 C 50061
	)	(Appeal No. 14-2680)
v.	)	
	)	Judge Frederick J. Kapala
City of Rockford, et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff’s motion for leave to appeal *in forma pauperis* [15] is denied. The court certifies that the appeal is not taken in good faith and orders Plaintiff to pay the appellate fees of \$505 within fourteen days or the Court of Appeals may dismiss his appeal for want of prosecution. The clerk is directed to send a copy of this order to the PLRA Attorney, U.S. Court of Appeals for the Seventh Circuit.

**STATEMENT**

Plaintiff, Eric L. Kelly, a federal prisoner in Coleman, Florida, filed a lawsuit in February 2014, in the Winnebago County Circuit Court. Plaintiff alleged that the Defendants used excessive force while arresting Plaintiff on April 6, 2012. The Defendants timely removed the matter to this Court. On April 21, 2014, the matter was dismissed as barred by *res judicata* and as malicious litigation. Plaintiff appeals that dismissal and moves to proceed *in forma pauperis*. For the reasons stated in the April 6, 2014, order, the court finds that this action does not raise a substantial issue meriting appellate review. As Plaintiff has raised none in his motion for leave to appeal *in forma pauperis*, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that the appeal is not in good faith and that no appeal should be taken.

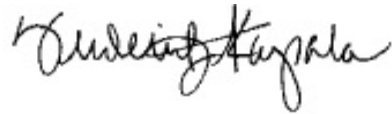
Under the rules of the U.S. Court of Appeals for the Seventh Circuit Court, if the district court certifies that an appeal is not taken in good faith, the appellant cannot prosecute the appeal *in forma pauperis* but rather must pay the appellate fees in full for the appeal to go forward. Consequently, Plaintiff must pay the full \$505 within fourteen days or the Court of Appeals may dismiss his appeal for want of prosecution. *See Evans v. Illinois Dept. of Corrections*, 150 F.3d 810, 812 (7th Cir. 1998). If Plaintiff wishes to contest this court’s finding that the appeal is not taken in good faith, he must file a motion with the Court of Appeals seeking review of this court’s certification within thirty days of service of this order. *See Fed. R. App. P. 24(a)(5)*.

Plaintiff is ordered to remit to the Clerk of the Court the \$505 appellate fee within fourteen days of the date of this order. If Plaintiff fails to comply with this order, the Court of Appeals may dismiss his appeal. Plaintiff is responsible for ensuring payment of the filing fees as directed by this order. Nonpayment for any reason other than destitution shall be construed as a voluntary relinquishment of the right to file future suits *in forma pauperis*. *Thurman v. Gramley*, 97 F.3d 185, 188 (7th Cir. 1996). The obligation to ensure full payment of the filing fees imposed by this order

shall not be relieved by release or transfer to another prison.

Payment shall be sent to the Clerk, United States District Court, 219 S. Dearborn St., Chicago, Illinois 60604, attn: Cashier's Desk, 20th Floor. Payment should clearly identify the Plaintiff's name, as well as the district court and appellate court case numbers assigned to this action.

Date: August 6, 2014

A handwritten signature in black ink, appearing to read "Andrew Kayala". The signature is written in a cursive style with a large, stylized initial 'A'.