

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

JUSTIN ANTHONY KUDLA,

Case No. 14-CV-2071 (PJS/JSM)

Petitioner,

v.

ORDER

TOM ROY, Department of Corrections
Commissioner,

Respondent.

Justin Anthony Kudla, pro se.

Kathleen A. Heaney, SHERBURNE COUNTY ATTORNEY'S OFFICE; Matthew Frank and James B. Early, MINNESOTA ATTORNEY GENERAL'S OFFICE, for respondent.

This matter is before the Court on petitioner Justin Kudla's motion to proceed on appeal without prepayment of fees. A litigant who seeks to be excused from paying the filing fee for an appeal in a federal case may apply for *in forma pauperis* ("IFP") status. 28 U.S.C. § 1915(a)(1); Fed. R. App. P. 24(a). To qualify for IFP status, a litigant must demonstrate that he cannot afford to pay the full filing fee. 28 U.S.C. § 1915(a)(1). However, "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). Good faith is

demonstrated when a defendant seeks appellate review of any non-frivolous issue.

Coppedge v. United States, 369 U.S. 438, 445 (1962).

Based on the disclosures in Kudla's IFP application, the Court concludes that he is not financially eligible for IFP status. The fee for filing an appeal is \$505. Kudla is employed and earns \$1,840 per month. He has no dependents. His estimated monthly expenses are \$1,460 (which includes an estimated \$200 per month for "[r]ecreation, entertainment, newspapers, magazines, etc."). This leaves Kudla with a surplus of \$380 per month. Additionally, as of the time of his affidavit, he had \$580.88 in his checking and savings account combined. Based on these submissions, the Court finds that Kudla can afford to pay the full filing fee. Kudla's IFP application is therefore denied.

ORDER

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED that petitioner Justin Kudla's motion to proceed *in forma pauperis* on appeal [ECF No. 16] is DENIED.

Dated: March 16, 2015

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge