

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------------|---|-------------------|
| BILLY TYLER, |) | 4:10CV3087 |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | MEMORANDUM |
| |) | AND ORDER |
| ROBB JACKSON, in his individual |) | |
| capacity only, |) | |
| |) | |
| Defendant. |) | |

This matter is before the court on Plaintiff’s Notice of Appeal. (Filing No. [20](#).) On April 8, 2011, the court dismissed Plaintiff’s claims and entered Judgment against him. (Filing Nos. [25](#) and [26](#).) Plaintiff filed a timely Notice of Appeal of the court’s Judgment. (Filing No. [27](#).) However, Plaintiff did not submit the appellate filing fee or a motion for leave to proceed in forma pauperis. (Filing No. [28](#).) Plaintiff is a non-prisoner and has previously been granted leave to proceed in forma pauperis in this matter.

As set forth in [Federal Rule of Appellate Procedure 24\(a\)\(3\)](#):

(a) Leave to Proceed in Forma Pauperis. . . .

(3) Prior Approval. A party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless the district court—before or after the notice of appeal is filed—certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis. In that event, the district court must state in writing its reasons for the certification or finding.

The court finds that because Plaintiff proceeded in forma pauperis in the district court, he may now “proceed on appeal in forma pauperis without further authorization.” *Id.*

IT IS THEREFORE ORDERED that:

1. Plaintiff is permitted to appeal in forma pauperis.
2. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

DATED this 28th day of April, 2011.

BY THE COURT:

s/ Joseph F. Bataillon
Chief United States District Judge

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