

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BILLY TYLER, on behalf of himself,)
his grandchildren, and all similarly)
situated. Plaintiff’s grandchildren)
and all others similarly situated are)
dismissed from this matter per order)
#5.,)
)
Plaintiff,)
)
v.)
)
EPA, Environmental Blah,)
)
Defendant.)

8:12CV388

**MEMORANDUM
AND ORDER**

This matter is before the court on Plaintiff’s Notice of Appeal and Motion for Leave to Appeal in Forma Pauperis (“IFP”). (Filing No. [15](#).) On March 25, 2013, the court dismissed Plaintiff’s claims and entered Judgment against him. (Filing Nos. [6](#) and [7](#).) Plaintiff filed a timely Notice of Appeal of the court’s Judgment and was permitted to appeal IFP. (Filing No. [8](#) and [9](#).) On May 23, 2013, Plaintiff filed a Motion in Arrest of Judgment, which the court liberally construed as a Motion for Relief Under Rule 60(b). (Filing Nos. [12](#) and [13](#).) The court denied Plaintiff’s Rule 60(b) Motion and Plaintiff appealed. (Filing Nos. [13](#) and [15](#).) Plaintiff is a non-prisoner and has previously been granted leave to proceed in forma pauperis in this matter. (Filing No. [4](#).)

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:

(A) 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 and states in writing its reasons for the certification or finding; or

(B) a statute provides otherwise.

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’s Motion for Leave to Appeal in Forma Pauperis (filing no. [15](#)) is granted.
2. The Clerk of the court shall provide the Court of Appeals with a copy of this Memorandum and Order.

DATED this 9th day of July, 2013.

BY THE COURT:

s/ John M. Gerrard

United States District Judge

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