

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Scott Roman Parizek,)	
)	ORDER
Plaintiff,)	
)	
vs.)	
)	
Ward County,)	Case No. 1:18-cv-110
)	
Defendant.)	

On motion by the Defendants, the Court issued an order on January 22, 2021, dismissing the above-captioned action without prejudice for lack of prosecution by Plaintiff. (Doc. No. 52). In so doing, it found that an appeal would be frivolous, could not be taken in good faith, and may not be taken in forma pauperis. (Id.). The Clerk’s office entered judgment on January 25, 2021. (Doc. No. 53).

On June 23, 2023, the Court received a letter from Plaintiff in which he states in relevant part that “I want to appeal the 2nd petition of file 1:18-cv-115.” (Doc. No. 71). Attached to his letter was a document captioned “Application for Indigent Defense Service Criminal Cases.” (Doc. No. 71-1). As it not entirely clear at this point whether Plaintiff is incarcerated,¹ the Clerk’s office shall provide Plaintiff with a PLRA Appeal Packet.

Before Plaintiff completes and returns the PLRA Appeal Packet or otherwise files a Notice of Appeal, Plaintiff should take note of the following. First, the appellate filing fee is \$505.00. Second, this action was dismissed without prejudice, meaning that he is not foreclosed from refileing

¹ The return address on the letter’s envelope is a PO Box in Minot, North Dakota. (Doc. No. 71-2). However, at the bottom of the page 1 of the "Application for Indigent Defense Service Criminal Cases" Plaintiff indicates that he unemployed because he is in jail. (Doc. No. 71-1).

it. Third, when dismissing this action, the Court certified that an appeal of its decision may not be taken in forma pauperis. Fourth, Rule 4(a) of the Federal Rules Appellate Rules of Civil Procedure 4(a) provides relevant part that a notice of appeal in a civil case must be filed within 30 days after entry of the judgment appealed from. Fifth, if Plaintiff is incarcerated, he should take heed that he is subject to the PLRA's "three strikes" provision. The "three strikes" provision provides that a prisoner who has had three prior "civil actions" or appeals dismissed as frivolous, malicious, or for failure to state a claim may not proceed in a "civil action" in forma pauperis unless he is "under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Six, if Plaintiff is incarcerated and if he were permitted to proceed on appeal in forma pauperis, he would be required to pay the appellate filing fee in installments. 28 U.S.C. § 1915(b).

IT IS SO ORDERED.

Dated this 26th day of June, 2023.

/s/ Clare R. Hochhalter
Clare R. Hochhalter, Magistrate Judge
United States District Court