

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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STEVEN E. FORTNEY,

Plaintiff,

v.

LT. CHRIS STEVENS, C.O. III DAVID LONGSINE,  
JERMEY LEIRMO, LUKE FULLMER, COLE  
COOPMAN, LARRY DILLENBERG, BRIAN VAN LOO,  
NURSE MARILYN VANTERKINTER and NURSE  
KATHY LEMENS,

Defendants.

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ORDER

09-cv-192-slc

On November 10, 2009 I granted defendants' motion for summary judgment because of plaintiff's failure to exhaust his administrative remedies on his claim that defendants violated his Eighth Amendment rights. Now before the court is plaintiff's notice of appeal. Because plaintiff has not paid the \$455 fee for filing a notice of appeal, I construe the notice as including a request for leave to proceed *in forma pauperis* on appeal.

A district court has authority to deny a request for leave to proceed in forma pauperis under 28 U.S.C. § 1915 for one or more of the following reasons: the litigant wishing to take an appeal has not established indigence, the appeal is in bad faith or if the litigant is a prisoner and has three strikes. § 1915(a)(1),(3) and (g). *Sperow v. Melvin*, 153 F.3d 780, 781 (7th Cir 1998). Plaintiffs' request for leave to proceed *in forma pauperis* on appeal will be denied because he has not submitted any documentation that his is indigent. Because he paid the filing fee in this case, he will have to pay the filing fee for his appeal because he has not shown that he is indigent.

Copy of this document has been  
provided to Fortney  
the 10<sup>th</sup> day of Dec, 2009  
by G. A. Korfh  
G. A. Korfh, Secretary to  
Magistrate Judge Crocker

ORDER

IT IS ORDERED that plaintiff's request to proceed *in forma pauperis* on appeal, dkt. 87, is DENIED.

Entered this 10<sup>th</sup> day of December, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge