

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

COREY SCHOENROCK,

Plaintiff,

v.

ORDER

09-cv-0565-bbc

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

On February 4, 2010, this court entered an order and judgment dismissing plaintiff Corey Schoenrock's appeal of a final decision of the Commissioner of Social Security on the ground that it was untimely. Plaintiff has now filed a notice of appeal. Because he has not paid the \$455 filing and docketing fee, I presume that he seeks to proceed in forma pauperis. I have already found plaintiff to be indigent, so the only question I must decide is whether plaintiff is taking his appeal in good faith. Fed. R. App. P. 24(a)(3)(A). Plaintiff has not asserted any grounds for his appeal and he has no meritorious argument to show that he is entitled to equitable tolling of the 60-day limitations period prescribed by the Social Security Act. Accordingly, I must certify that his appeal is not taken in good faith and deny his request for leave to proceed in forma pauperis on appeal.

Because I am certifying plaintiff's appeal as not having been taken in good faith, plaintiff cannot proceed with his appeal without prepaying the \$455 filing fee unless the court of appeals gives him permission to do so. Under Fed. R. App. P. 24, plaintiff has 30 days from the date of this order in which to ask the court of appeals to review this court's denial of leave to proceed in forma pauperis on appeal. His motion must be accompanied

by an affidavit as described in the first paragraph of Fed. R. App. P. 24(a), including a statement of issues that plaintiff intends to present on appeal. Also, plaintiff's motion must be accompanied by a copy of this order. Plaintiff should be aware that these documents should be filed in addition to the notice of appeal he has previously filed. If plaintiff does not file a motion requesting review of this order, the court of appeals may choose not to address this court's denial of leave to proceed in forma pauperis on appeal. Instead, it will require plaintiff to pay the entire \$455 filing fee before it considers his appeal. If plaintiff fails to pay the fee within the deadline set, it is possible that the court of appeals will dismiss the appeal.

ORDER

IT IS ORDERED that plaintiff Corey Schoenrock's request for leave to proceed in forma pauperis on appeal is DENIED. I certify that plaintiff's appeal is not taken in good faith. The clerk of court is directed to insure that plaintiff's obligation to pay the \$455 fee for filing his appeal is reflected in the court's financial record.

Entered this 12th day of March, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge