

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

JACKIE CARTER,

Plaintiff,

v.

MICHAEL MEISNER, *et al.*,

Defendants,

ORDER

12-cv-574-wmc

App. No. 14-3575

On October 31, 2014, the court granted defendants' motion for summary judgment and dismissed this case. Plaintiff Jackie Carter has filed a notice of appeal and he requests leave to proceed *in forma pauperis*. Because Carter is incarcerated, his case is governed by the Prisoner Litigation Reform Act (PLRA), 28 U.S.C. § 1915(b), which requires indigent inmates to pay by installment the entire filing fee for civil actions and appeals. At the court's request, Carter has supplied an inmate trust fund account statement so that a determination may be made as to whether he is indigent and, if so, what amount must be assessed as an initial partial payment of the fee for his appeal. In making that determination, the court must also certify whether an appeal is "not taken in good faith" or that the party is "not otherwise entitled to proceed" as an indigent litigant for purposes of Fed. R. App. P. 24(a)(3). *See* 28 U.S.C. § 1915(a)(3) ("An appeal may not be taken *in forma pauperis* if the court certifies in writing that it is not taken in good faith.").

From the financial information that Carter provides, the court finds that he lacks sufficient means to pre-pay the \$505.00 appellate docketing fee that he qualifies as indigent. Because it does not appear that Carter has filed his appeal in bad faith or that

pauper status is otherwise precluded by Fed. R. App. P. 24(a), the court will grant his motion for leave to proceed *in forma pauperis*.

Although Carter has been found eligible to proceed *in forma pauperis*, the PLRA requires indigent inmates to pay the full amount of the docketing fee for his notice of appeal (\$505) in increments, starting with an initial partial payment, pursuant to the formula found in 28 U.S.C. § 1915(b)(1)-(2). Based on his inmate trust fund account statement, the court finds that Carter is able to make an initial partial filing fee payment of \$35.64, which will be due no later than February 3, 2015. Thereafter, Carter shall pay the remainder of the \$505 appellate docketing fee in monthly installments according to 28 U.S.C. § 1915(b)(2).

ORDER

IT IS ORDERED that:

1. Plaintiff Jackie Carter's notice of appeal is not taken in bad faith for purposes of Fed. R. App. P. 24(a)(3).
2. Carter's motion for leave to proceed *in forma pauperis* (dkt. # 100) is GRANTED.
3. No later than February 3, 2015, Carter shall submit a check or money order made payable to the Clerk of Court in the amount of \$35.64 as an initial partial payment of the docketing fee for his appeal. Thereafter, plaintiff shall pay the remainder of the \$505 appellate docketing fee in monthly installments according to 28 U.S.C. § 1915(b)(2). If plaintiff does

not have the money to make the initial partial payment in plaintiff's regular account, plaintiff will have to arrange with prison authorities to pay some or all of the assessment from plaintiff's release account.

4. Carter is advised that if he fails to make the initial partial fee payment as directed, the clerk's office will alert the Seventh Circuit, which may result in the dismissal of his appeal.

Entered this 13th day of January, 2015.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge