

Separately

Appendix(B)

USDC IN/ND case 3:22-cv-00403-DRL-MGG document 24 filed 08/30/22 page 1 of 7

~~This
has all
Documents
Included~~

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

JOHN GALIPEAU *et al.*,

Defendants.

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filed date and
was missing pages
as well I
had to add
em from
Other Document
that's similar

CAUSE NO. 3:22-CV-403-DRL-MGG

ORDER

Jerry A. Smith, a prisoner without a lawyer, has filed two more letters with the court one directed to the clerk, and one directed to the undersigned. ECF 20; ECF 22. He has now filed nine letters with the court since initiating this lawsuit on May 19, 2022. ECF 5; ECF 6, ECF 8, ECF 12, ECF 13, ECF 15, ECF 16; ECF 20, ECF 22. The court has on three occasions explained to Mr. Smith that it is improper for him to write the undersigned letters. ECF 4; ECF 14 at 2-3; ECF 17. Mr. Smith was admonished that "neither the clerk nor the undersigned are his pen pal[.]" ECF 14 at 3. It was explained that the court's role is to rule on requests contained in motions, not review letters. *Id.* He was told that any request Mr. Smith has of the court needs to be presented in the form of a motion. *Id.* He has been told on three occasions that everything he files must have a caption and a title. ECF 4; ECF 14 at 2; ECF 17. Mr. Smith acknowledged receiving a copy of this court's July 1, 2022 order (ECF 14), and yet he has not complied with the directives contained in the order. In an order dated July 22, 2022 (ECF 17), Mr. Smith was reminded that this case was initiated in May 2022 when Mr. Smith filed an unsigned complaint with a multitude

of deficiencies (ECF 1), and that those deficiencies had not yet been resolved. Mr. Smith was ordered to show cause why he has not complied with this court's orders by August 15, 2022. He was cautioned that, if he did not respond to this order, this case may be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply with a court order.

Mr. Smith hasn't explained why he violated the court's order or why he has continued to file letters with the court despite being instructed to stop. ECF 20, ECF 22. This is unacceptable and, standing alone, warrants dismissal. He, however, now has filed a signed amended complaint, and in the interests of justice, the amended complaint will be reviewed.

"A document filed *pro se* is to be liberally construed, and a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (quotation marks and citations omitted). Nevertheless, under 28 U.S.C. § 1915A, the court must review the merits of a prisoner complaint and dismiss it if the action is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

[A] court may dismiss a claim as factually frivolous only if the facts alleged are clearly baseless, a category encompassing allegations that are fanciful, fantastic, and delusional. As those words suggest, a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.

There's
no law
of a
pro se
litigant
that says
I can't
inform
courts
of
what's
going on

Denton v. Hernandez, 504 U.S. 25, 32–33 (1992) (quotation marks and citations omitted).

Thus, a case can be dismissed without a response from the defendants when “the facts alleged in the complaint are . . . unbelievable, even though there has been no evidentiary hearing to determine their truth or falsity.” *Gladney v. Pendleton Correctional Facility*, 302 F.3d 773, 774 (7th Cir. 2002); *see also Lee v. Clinton*, 209 F.3d 1025 (7th Cir. 2000).

Mr. Smith’s original complaint (ECF 1) was unsigned, lengthy, confusing, and appeared to name 100 different defendants. The court explained to Mr. Smith (ECF 2) that the Federal Rules of Civil Procedure require Mr. Smith to present his claims with sufficient clarity “to avoid requiring a district court or opposing party to forever sift through its pages” to determine whether it states a claim. *Jennings v. Emry*, 910 F.2d 1434, 1436 (7th Cir. 1990); *see also United States ex rel. Garst v. Lockheed-Martin Corp.*, 328 F.3d 374, 378 (7th Cir. 2003) (federal pleading standards “require[] parties to make their pleadings straightforward, so that judges and adverse parties need not try to fish a gold coin from a bucket of mud”). The court noted that Rule 8 requires only a “short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2).

The court specifically pointed out to Mr. Smith that his seventeen-page, unsigned complaint contained a long list of names, but did not explain what each defendant did that Mr. Smith believes makes that defendant liable to him. The court noted that it appeared that Mr. Smith was suing 100 separate defendants, but it was not entirely clear because he had not provided a single list of the names of the defendants he was suing in this case. He also wrote all the way to the edge of the paper on both the sides and the bottom such that, when the complaint was scanned, some words were no longer visible,

making the complaint even more difficult to comprehend. The way he drafted the original complaint was cumbersome and made it difficult to discern the exact contours of his claims. Mr. Smith was granted an opportunity to file a signed amended complaint and instructed to explain in his own words what happened, when it happened, where it happened, who was involved, and how he was personally injured. ^{I Did that}

The court also noted that the original, unsigned complaint seemed to contain several unrelated claims. He complained about dental care, eye care, various conditions of confinement, various disciplinary matters, failure to protect, and more, all in a single complaint. The court explained that Mr. Smith may not sue different defendants based on unrelated events. "Unrelated claims against different defendants belong in different suits[.]" *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007); *accord Owens v. Evans*, 878 F.3d 559, 566 (7th Cir. 2017).

The amended complaint is signed, utilized this court's form, and does not contain text on the edges of the pages, but many of the other deficiencies remain. Mr. Smith states he is suing 200 defendants, but he lists 26 defendants in the body of the amended complaint ECF 18 at 1-2. He may be attempting to sue individuals listed in other documents filed with the court, but that too is unclear. ECF 18 at 2 ("I've already entered all other defendants on 6-22-22 E-filed, Document attached[.]"). At any rate, incorporating other documents by reference is not permissible. N.D. Ind. L.R. 15-1 requires that he do so by "reproduc[ing] the entire pleading as amended" and prohibits "incorporat[ing] any prior pleading by reference."

Mr. Smith continues to raise claims that are seemingly unrelated. He alleges deficient medical care, unlawful conditions of confinement, excessive force, due process violations, a lack of access to the courts, violations of his religious rights, and more all in a single complaint.

While these deficiencies are problematic, there is a more fundamental problem. The allegations of the complaint are bizarre. Mr. Smith alleges that he received an injection from a nurse that he should not have received, and it caused a whole host of problems. ECF 18 at 5-6. He also stated, with regard to the injection, that "[i]t also Snow, Rain right after shortly like it connected me to Something." *Id.* at 6.

He alleges that two defendants took \$250 for a GTL tablet, and he had to wait nine months to receive the tablet. He claims that, after 90 days, he was permitted to request a refund. He claims he did request the refund, but "they refused to give [him the] money because they multiplied that 250.00 by 10 in the 9 months against the law." *Id.* at 7.

He claims at one point he was attacked by officers and they "burned out [his] eyes with a device after hitting [him] in the hand implanting a device in [his] system." *Id.* at 9. He claims other officers "disrespected [his] food and room put brown voodoo [sic] stick which [he] still [has] in [his] cell." *Id.* at 10.

He references his DOC number being stolen. Regarding the officer that allegedly stole it, he says "[a]ll the ink fell out of her. She offered [him] sex on GSC Side, but [he] said [he] was too dirty." ECF 18 at 12. He shares details about his sexual history, both before and after his incarceration. ECF 18 at 12-13. Then, he writes "the intrusive and intensive RWI program, moderna, Pyzfizer [sic] (Sinopharm) vaccine played a part of

being intrusively connected to all the people at Westville Correctional facility every one

Say [he's] the one." ECF 18 at 13. He adds that "[n]ow the inmates are placing intrusive thoughts as well as C/Os, volunteers, Disrespecting [his] family and [him] and kids." ECF 18 at 13. He references "clones of people" and states that he is "100% Human though just a gift from God that's it." ECF 18 at 13. He claims he was "being made to make movie in the facility[.]" *Id.* at 14. Elsewhere he states he "was forced beyond [his] will to make music, movies, radio, count in Games, Service others and witness Identity theft." *Id.* at 19.

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He references someone who "sold [him] the Ice with the truth serum in it." *Id.* at 17. He states that, while he was dating a woman, there "was Prostitution Activities that

most certainly went on, I never received A Dime from it." *Id.* at 18. He claims an inmate who had some sort of relationship with the same woman "disrespected [his] wellbeing with the 'Dark Magic.'" *Id.* at 18-19.

Though not all of Mr. Smith's allegations are factually impossible, collectively they "are fanciful, fantastic, and delusional" *Denton*, 504 U.S. at 33. Therefore, this case will

be dismissed as frivolous. *See Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Gladney v.*

Pendleton Correctional Facility, 302 F.3d 773, 774 (7th Cir. 2002) (affirming dismissal of

complaint as frivolous where the plaintiff alleged that over a span of three years, multiple guards at three different prisons left his cell door unlocked at night while he was sleeping so that other inmates could come in his cell and assault him); *see also Schottler v. Wisconsin*,

388 Fed. Appx. 547 (7th Cir. Jul. 28, 2010) (affirming dismissal of complaint as frivolous,

where plaintiff alleged that someone had inserted a metal pin in his head and various

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11

state officials and police officers had purposely ignored his pleas for help); *Lawrence v. Interstate Brands*, 278 Fed. Appx. 681, 684 (7th Cir. May 22, 2008) (“Lawrence’s allegations – that the Illinois legal system is controlled by the Ku Klux Klan and that a vast network composed of lawyers, judges, and his former employers have conspired over the past 20 years to deny him equal protection of the laws, harass him on the basis of his race, and defraud him – are frivolous under this standard.”). 100-1
Lie

Though it is usually necessary to permit a plaintiff the opportunity to file an amended complaint when a case is dismissed *sua sponte*, see *Luevanò v. Wal-Mart*, 722 F.3d 1014 (7th Cir. 2013), that is unnecessary when the amendment would be futile, *Holland v. City of Gary*, 503 F. App’x 476, 477-78 (7th Cir. 2013) (amendment of complaint with fantastic and delusional allegations would be futile). See also *Hukic v. Aurora Loan Servs.*, 588 F.3d 420, 432 (7th Cir. 2009). It is likely medical providers at the Westville Correctional Facility already know about Mr. Smith’s concerns, but if they do not, it is important for them to see this complaint so they can provide him with whatever counseling and mental health treatment may be appropriate.

For these reasons, this case is DISMISSED pursuant to 28 U.S.C. § 1915A because it is frivolous. The clerk is DIRECTED to send a copy of this order and the amended complaint (ECF 18) to the Warden of the Westville Correctional Facility so it can be passed along to medical providers at the prison.

SO ORDERED.

August 30, 2022

s/ Damon R. Leichty
Judge, United States District Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

CAUSE NO. 3:22-CV-403-DRL-MGG

JOHN GALIPEAU *et al.*,

Defendants.

ORDER

Jerry A. Smith, a prisoner without a lawyer, filed a letter addressed to the undersigned. ECF 16. It does not contain either a caption or a title. This case was initiated two months ago when Mr. Smith filed an unsigned complaint with a multitude of deficiencies.¹ ECF 1. This is the seventh letter he has filed with the court. ECF 5; ECF 6, ECF 8, ECF 12, ECF 13, ECF 15, ECF 16.

The court has on two occasions explained to Mr. Smith that it is improper for him to write the undersigned letters. ECF 4; ECF 14 at 2-3. Mr. Smith was admonished that "neither the clerk nor the undersigned are his pen pal[.]" ECF 14 at 3. It was explained that the court's role is to rule on requests contained in motions, not review letters. *Id.* He was told that any request Mr. Smith has of the court needs to be presented in the form of a motion. *Id.* He has been told on two occasions that everything he files must have a caption and a title. ECF 4; ECF 14 at 2. Mr. Smith acknowledges receiving a copy of this

¹ After two months, Mr. Smith has not filed a signed amended complaint that attempts to resolve any of the deficiencies pointed out by the court.

court's July 1, 2022, order (although not the *pro se* prisoner complaint form included with the order), and yet he has not complied with the directives contained in the order.

For these reasons, the court:

(1) DIRECTS the clerk to put this case number on another blank Prisoner

Complaint form Pro Se 14 (INND Rev. 2/20) and send it to Jerry A. Smith;

(2) ORDERS Jerry A. Smith to SHOW CAUSE why he has not complied with this

court's orders by August 15, 2022;

(3) CAUTIONS Jerry A. Smith that, if he does not respond to this order, this case may be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to comply

with a court order.

SO ORDERED.

July 22, 2022

s/Damon R. Leichty
Judge, United States District Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

CAUSE NO. 3:22-CV-403-DRL-MGG

JOHN GALIPEAU, et al.,

Defendants.

ORDER

Wesley Stevens sent an email to Judge Damon R. Leichty's chambers, indicating that Jerry A. Smith, a prisoner without a lawyer, was having trouble accessing his legal mail and sending legal documents but is attempting to prepare an amended complaint and request for preliminary injunction. ECF 3. This was improper. Filings must be sent to the clerk so they can be filed in the public record. The email was given to the clerk so it could be docketed in this case. Stevens is not a party to this case and cannot represent Smith because he is not a lawyer admitted to practice in this court.

Furthermore, the email was unnecessary. Smith was granted until June 27, 2022, to file his signed, amended complaint containing only related claims and resolve his filing fee status. ECF 2. That deadline is more than two weeks from now. The brief delay described in the email should not prevent Smith from complying with the court's order. If Smith is unable to meet the deadline, then he must file a motion asking for additional time. Stevens cannot do this for him; Smith must personally sign his filings and send them to the court. Everything Smith files must have the case number. Everything he

files must also have a caption like the one at the top of this order.¹ Everything he files must have a title.

For these reasons, the court:

(1) ADMONISHES Jerry A. Smith to tell Wesley Stevens not to attempt to communicate with judges about this case or submit for filing anything not signed by

Jerry A. Smith;

(2) DIRECTS the clerk to send a copy of this order to the address from which Wesley Stevens' email was sent; and

(3) CAUTIONS Wesley Stevens that any future communications of this nature could result in fines or sanctions.

SO ORDERED on June 10, 2022

s/ Michael G. Gotsch, Sr.

Michael G. Gotsch, Sr.

United States Magistrate Judge

¹ There are exceptions to the requirement that everything must have a caption. If Smith wants to know the status of this case or the payment of his filing fees, he must write the clerk a letter asking for a docket sheet or a ledger. But even then, he must include the case number.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

JOHN GALIPEAU, et al.,

Defendants.

CAUSE NO. 3:22-CV-403-DRL-MGG

ORDER

Jerry A. Smith, a prisoner without a lawyer, a "Petition for Certification of Appealability." ECF 29. The certificate of appealability requirement applies only to habeas corpus petitions. 28 U.S.C. § 2253(c). This case is a civil rights action brought under 42 U.S.C. § 1983. Accordingly, the petition is DENIED AS UNNECESSARY.

SO ORDERED.

November 18, 2022

s/Damon R. Leichty
Judge, United States District Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

JOHN GALIPEAU *et al.*,

Defendants.

CAUSE NO. 3:22-CV-403-DRL-MGG

ORDER

Jerry A. Smith, a prisoner without a lawyer, initiated this case by filing a long, confusing, unsigned complaint listing 100 defendants and raising seemingly unrelated claims without explaining what each defendant did that Mr. Smith believes makes that defendant liable to him. He was granted an opportunity to amend his complaint and admonished that he must present his claims with sufficient clarity "to avoid requiring a district court or opposing party to forever sift through its pages" to determine whether it states a claim. ECF 2. The court explained to Mr. Smith that, when he writes all the way to the edge of the paper, some words are no longer visible when his documents are scanned. *Id.* Mr. Smith was told to explain in his own words what happened, when it happened, where it happened, who was involved, and how he was personally injured. *Id.* Mr. Smith was warned that he may not sue different defendants based on unrelated events. *Id.* Mr. Smith was told to decide which related claims and associated defendants he wants to pursue in this case and to file an amended complaint including only a discussion of the related claims and defendants. *Id.* He was told that he should not write

about other events and conditions at the prison which are not directly related to the claim against the named defendant or defendants. *Id.*

After screening the complaint, the court received an email from Wesley Stevens, who is not a party to this case, advising that Mr. Smith was having trouble accessing his legal mail and sending legal documents, but Mr. Smith was attempting to prepare an amended complaint and request for preliminary injunction. ECF 3. The court explained that this is improper. ECF 4. Mr. Smith was told that *he* must personally sign his filings and send them to the court. *Id.* He was told that everything he files must include the case number. *Id.* He was told that everything he files must also have a caption like the one at the top of the court's orders. *Id.* He was told that everything he files must have a title. *Id.*

Now, Mr. Smith has filed several additional letters and/or documents. ECF 5; ECF 6; ECF 11; ECF 12; ECF 13. In this first letter, addressed to the clerk, Mr. Smith complains about delays in receiving legal mail and limited law library access. ECF 5. He also complains about an officer putting his finger in Mr. Smith's food, a shake-down, lack of clothes and bedding, being housed with an inmate that tried to kill him, being wrongly incarcerated, and more. *Id.* He indicates he wants to be released immediately or transferred, and he asks the clerk to send an FBI agent to talk to him. *Id.* As with his initial complaint, he continues to write all the way to the edges of the paper, so that when the paper is scanned, some of the text cannot be seen. The letter includes the cause number in the body of the text, but not at the top, where it could be readily identified.

This letter was improper. As has already been explained (ECF 4), it is proper for Mr. Smith to write the clerk if he wants to request a docket sheet or financial ledgers. It

is not proper to write the clerk a letter complaining about a variety of alleged wrongs. Neither is it proper to send a letter that does not contain the cause number in a readily identifiable place or to write to the edges of the paper such that the text cannot all be read once it is scanned.

Mr. Smith's next letter is addressed to the undersigned. ECF 6. It contains a caption and is titled "Letter to Judge." ECF 6. In it, Mr. Smith explains some of the difficulties he has faced in preparing his amended complaint and asks for additional time. He also references a motion for preliminary injunction, stating he is in fear of his life and needs to be transferred. He complains about various other wrongs too, including an officer putting "voodoo sticks" in his food. *Id.* at 3. To the extent he is seeking an extension of time, this document should have been titled as a "Motion for Extension of Time." Nonetheless, the deadline will be extended. To the extent he is seeking a preliminary injunction, the document should have been titled as a "Motion for Preliminary Injunction." Any motion for preliminary injunction, however, is premature. Until Mr. Smith files an amended complaint, the court screens it, and the court finds that the amended complaint states a claim, no request for injunctive relief can be granted. Mr. Smith is admonished that neither the clerk nor the undersigned is his pen pal; the court's role is rule on requests contained in motions, not review letters. Any request Mr. Smith has of the court must be presented in the form of a motion which clearly and concisely states the relief he is seeking and the reason he believes he is entitled to the relief sought.

Next, Mr. Smith filed 153 pages of documents that are incomprehensible. The filing begins with a signed and notarized portions of the docket sheet from this case on which

Mr. Smith has made notes. ECF 11 at 1-13. This is followed by a copy of a May 27, 2022, order from the Lake Superior Court indicating that his petition for post-conviction relief had been refused. *Id.* at 14. Then there is a copy of the rejected petition with very confusing page numbers. *Id.* at 15-24. There are three pages numbered as page three, a page four, and three pages numbered as page five. *Id.* 18-24. This is followed by additional orders and/or filings related to his post-conviction relief proceedings. There are copies of envelopes and forms from the prison related to legal mail. *Id.* at 33-39. The filing goes on and on like this, ending with a couple more pages from the court's docket, again with handwritten notes. *Id.* at 52-53. To the extent that any portion of this was intended to be Mr. Smith's amended complaint, it does not demonstrate a good faith effort to comply with this court's order directing him to include a short and plain statement of his claims and to limit those claims to only related defendants. He does not appear to have made any effort to limit the number of defendants he is suing, and it is even less clear from this filing what Mr. Smith is suing about than it was from his earlier filing.

This group of documents was followed by another letter without a cause number addressed to the clerk. ECF 12. This letter addresses Wesley Stevens, the individual that sent an improper email to the court. Mr. Smith refers to Mr. Stevens as both his paralegal and a witness in his case. Mr. Smith indicates that he will send Mr. Stevens his signature so he can email the court and suggests that will authorize Mr. Stevens to email or file things on his behalf. The court emphasizes: *it will not*. Mr. Stevens is not an attorney, and he may not represent Mr. Smith in this action. Mr. Stevens can assist Mr. Smith, but it is

Mr. Smith who must personally sign each document that is filed with the court. The remainder of the letter includes a narrative of various alleged wrongs. A letter is not a substitute for a complaint, and his recitations of alleged wrongs in a letter will not be treated as a complaint.

Last, Mr. Smith wrote another letter without a cause number to the undersigned and included exhibits with the letter. ECF 13. This letter indicates that certain pages were omitted from the group of documents received by the court on June 22, 2022. He then refers to his attorney and Mr. Stevens, but he is not represented by an attorney in this action and Mr. Stevens cannot represent him in this action, as already explained.

In the interests of justice, Mr. Smith will be given another chance to comply with this court's directives to produce a signed, amended complaint containing only related claims on the designated form, including a short and plain statement explaining why he is suing each defendant and why he believes that defendant is liable to him. He will be provided with a copy of the court's *pro se* complaint form, since he indicates he has had difficulty obtaining a copy of the form. Mr. Smith needs to understand that filing a complaint that complies with the court's orders is the next step in this case. No request for preliminary injunction can be properly considered until he has filed an amended complaint.

For these reasons, the court:

(1) DIRECTS the clerk to put this case number on a blank Prisoner Complaint

form Pro Se 14 (INND Rev. 2/20) and send it to Jerry Smith;

wasn't in the mail I showed officers
Augus Pated 6-10-22 6-11-2022
07 DS3-1035 He passed the mail out

(2) EXTENDS the deadline for Jerry Smith to file a signed, amended complaint using this court's form and containing only a short and plain statement explaining what the defendants he is suing did that he believes makes them liable to him and when they did it to July 30, 2022;

(3) ADMONISHES Jerry Smith that a long, rambling complaint against an excessively large number of defendants alleging of plethora of wrongs will not suffice; his claims *must be related to one another*;

(4) FURTHER ADMONISHES Jerry Smith that he should not write letters to the undersigned; unless he is asking the clerk for a copy of his docket sheet or a financial ledger, any request should be in the form of a motion requesting specific relief; and

(5) FURTHER ADMONISHES Jerry Smith that Wesley Stevens cannot send emails or file documents on his behalf; he may only assist Mr. Smith in preparing documents that Mr. Smith personally signs.

SO ORDERED.

July 1, 2022

s/Damon R. Leichty
Judge, United States District Court

13 June 12 2022

Appendix B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

CAUSE NO. 3:22-CV-403-DRL-MGG

JOHN GALIPEAU, et al.,

Defendants.

ORDER

Jerry A. Smith, a prisoner without a lawyer, seeks leave to proceed *in forma pauperis* on appeal. Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” Procedurally, this appeal is not taken in good faith because the notice of appeal is untimely. The order of dismissal and judgment were entered August 30, 2022. ECF 24; ECF 25. Pursuant to Federal Rule of Appellate Procedure 4(a)(1)(A), Mr. Smith had 30 days to file a notice of appeal. The record demonstrates that Mr. Smith was aware of the August 30, 2022, order at least by September 8, 2022. ECF 26 at 1. However, he did not initiate his appeal until October 25, 2022. ECF 27; ECF 28; ECF 29. Therefore, the appeal is untimely. Furthermore, even if the appeal were timely, it is not taken in good faith for the reasons set forth in the court’s August 30, 2022, order dismissing this case.

Accordingly, the motion for leave to proceed *in forma pauperis* on appeal (ECF 36) is DENIED.

SO ORDERED.

March 16, 2023

s/Damon R. Leichty
Judge, United States District Court

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

CAUSE NO. 3:22-CV-403-DRL-MGG

JOHN GALIPEAU, et al.,

Defendants.

ORDER

Jerry A. Smith, a prisoner without a lawyer, a "Petition for Certification of Appealability." ECF 29. The certificate of appealability requirement applies only to habeas corpus petitions. 28 U.S.C. § 2253(c). This case is a civil rights action brought under 42 U.S.C. § 1983. Accordingly, the petition is DENIED AS UNNECESSARY.

SO ORDERED.

November 18, 2022

s/ Damon R. Leichty
Judge, United States District Court

Appendix C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JERRY A. SMITH,

Plaintiff,

v.

CAUSE NO. 3:22-CV-403-DRL-MGG

JOHN GALIPEAU, et al.,

Defendants.

ORDER

Jerry A. Smith, a prisoner without a lawyer, seeks leave to proceed *in forma pauperis* on appeal. Pursuant to 28 U.S.C. § 1915(a)(3), “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” Procedurally, this appeal is not taken in good faith because the notice of appeal is untimely. The order of dismissal and judgment were entered August 30, 2022. ECF 24; ECF 25. Pursuant to Federal Rule of Appellate Procedure 4(a)(1)(A), Mr. Smith had 30 days to file a notice of appeal. The record demonstrates that Mr. Smith was aware of the August 30, 2022, order at least by September 8, 2022. ECF 26 at 1. However, he did not initiate his appeal until October 25, 2022. ECF 27; ECF 28; ECF 29. Therefore, the appeal is untimely. Furthermore, even if the appeal were timely, it is not taken in good faith for the reasons set forth in the court’s August 30, 2022, order dismissing this case.

Accordingly, the motion for leave to proceed *in forma pauperis* on appeal (ECF 36) is DENIED.

SO ORDERED.

March 16, 2023

s/Damon R. Leichty

Judge, United States District Court

KYLE WATKINS, Westville Staff

Defendants

JUDGMENT IN A CIVIL ACTION

The court has ordered that (*check one*):

the plaintiff _____ recover from the defendant _____ the amount of _____ dollars \$ _____, which includes prejudgment interest at the rate of _____ % plus post-Judgment interest at the rate of _____ % along with costs.

the plaintiff recover nothing, the action is dismissed on the merits, and the defendant _____ recover costs from the plaintiff _____.

Other: This case is DISMISSED pursuant to 28 U.S.C. § 1915A

This action was (*check one*):

tried to a jury with Judge _____ presiding, and the jury has rendered a verdict.

tried by Judge _____ without a jury and the above decision was reached.

decided by Judge Damon R. Leichty

DATE: 8/30/2022

GARY T. BELL, CLERK OF COURT

by s/ S. Jarrell
Signature of Clerk or Deputy Clerk

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

November 2, 2022

No. 22-2985	<p>JERRY A. SMITH, Plaintiff - Appellant</p> <p>v.</p> <p>JOHN GALIPEAU, et al., Defendants - Appellees</p>
Originating Case Information:	
District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty	

NOTIFICATION: NO APPELLEE(S) SERVED

The above captioned appeal was filed in this court this date. This is notification that no appellee(s) or counsel for the appellee(s) were served in the District Court.

form name: c7_NoAppelleeNote (form ID: 119)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF CASE OPENING

November 2, 2022

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
Originating Case Information:	
District Court No. 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty Clerk/Agency Rep Gary T. Bell	
Case filed: 11/02/2022 Case type: pr/st Fee status: PLRA fee due Date of Judgment: 08/30/2022 Date NOA filed: 11/02/2022	

The above-captioned appeal has been docketed in the United States Court of Appeals for the Seventh Circuit.

Deadlines:

Appeal No. Filer	Document	Due Date
22-2985 Jerry A. Smith	Transcript information sheet	11/16/2022
22-2985 Jerry A. Smith	PLRA fee/mot/memo due	12/02/2022

THIS NOTICE SHALL NOT ACT AS A SUBSTITUTE FOR MOTIONS FOR NON-ININVOLVEMENT /
SUBSTITUTION OF COUNSEL. COUNSEL ARE STILL REQUIRED TO FILE THE APPROPRIATE MOTIONS.

The docketing of an appeal in this court requires litigants and their counsel to comply with several requirements and rules. This notice calls to your attention that the Practitioner's Handbook For Appeals to the United States Court of Appeals for the Seventh Circuit should always be consulted to make sure you comply with all rules and court procedures. The full text of the most current versions of the Handbook, the Federal Rules of Appellate Procedure, the Circuit Rules, court forms and checklists are available at <https://www.ca7.uscourts.gov> or can be obtained from the Clerk's Office upon request. Counsel and parties are reminded to always check the most current rules.

Important Scheduling Notice!

If a case is designated to proceed to oral argument, hearing notices will be mailed shortly before the date of oral argument. Please note that counsel's unavailability for oral argument must be submitted by letter, filed electronically with the Clerk's Office, no later than the filing of the appellant's brief in a criminal case and the filing of an appellee's brief in a civil case. See Cir. R. 34(b)(3). The court's calendar is located at <https://www.ca7.uscourts.gov/cal/argcalendar.pdf>. Once scheduled, oral argument is rescheduled only in extraordinary circumstances. See Cir. R. 34(b)(4), (e).

form name: c7_Docket_Note (form ID: 108)

Case: 22-2985 Document: 1-2

Filed: 11/02/2022 Pages: 2

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT



Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF CASE OPENING

November 2, 2022

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
Originating Case Information District Court No. 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty Clerk/Agency Rep Gary T. Bell	
Case filed: 11/02/2022 Case type: pr/st Fee status: PLRA fee due Date of Judgment: 08/30/2022 Date NOA filed: 11/02/2022	

The above-captioned appeal has been docketed in the United States Court of Appeals for the
Seventh Circuit

Deadlines:

Appeal No./Filer	Document	Due Date
22-2985 Jerry A. Smith	Transcript information sheet	11/16/2022
22-2985 Jerry A. Smith	PLRA fee/mot/memo due	12/02/2022

Case: 22-2985 Document: 1-2 Filed: 11/02/2022 Pages: 2

The docketing of an appeal in this court requires litigants and their counsel to comply with several requirements and rules. This notice calls to your attention that the Practitioner's Handbook For Appeals to the United States Court of Appeals for the Seventh Circuit should always be consulted to make sure you comply with all rules and court procedures. The full text of the most current versions of the Handbook, the Federal Rules of Appellate Procedure, the Circuit Rules, court forms and checklists are available at <https://www.ca7.uscourts.gov> or can be obtained from the Clerk's Office upon request. Counsel and parties are reminded to always check the most current rules.

Important Scheduling Notice!

If a case is designated to proceed to oral argument, hearing notices will be mailed shortly before the date of oral argument. Please note that counsel's unavailability for oral argument must be submitted by letter, filed electronically with the Clerk's Office, no later than the filing of the appellant's brief in a criminal case and the filing of an appellee's brief in a civil case. See Cir. R. 34(b)(3). The court's calendar is located at <https://www.ca7.uscourts.gov/cal/argcalendar.pdf>. Once scheduled, oral argument is rescheduled only in extraordinary circumstances. See Cir. R. 34(b)(4), (e).

form name: c7_Docket_Note (form ID: 108)

It suppose to went to Federal court and
Supreme Court in Washington, D.C. as well
as Indiana appeal court in Indianapolis
How did ms. Hughes Send it to
Chicago or mail room Send it
to Chicago if this E-file
I Said Northern District
Southbend Chapter 9th Circuit
NOT 7th Circuit, more violations
to misdirect, to get thrown out
let the church all Lawyers, Nick and
Wesley know today 11-5-2022

Appendix C

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

PLRA C.R. 3(b) FINAL ORDER

January 6, 2023

No. 22-2985	<p>JERRY A. SMITH, Plaintiff - Appellant</p> <p>v.</p> <p>JOHN GALIPEAU, et al., Defendants - Appellees</p>
-------------	---

Originating Case Information:

District Court No: 3:22-cv-00403-DRL-MGG
Northern District of Indiana, South Bend Division
District Judge Damon R. Leichty

The pro se appellant has neither paid the \$505.00 appellate fees nor filed a motion for leave to proceed on appeal in forma pauperis in the District Court, as prescribed in Fed. R. App. P. 24(a). Accordingly,
IT IS ORDERED that this appeal is DISMISSED for failure to pay the required docketing fee pursuant to Circuit Rule 3(b).

IT IS FURTHER ORDERED that the appellant pay the appellate fee of \$505.00 to the clerk of the district court. The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of Section 1915(b). *Newlin v. Helman*, 123 F.3d 429, 433 (7th Cir. 1997).

3. If the motion to proceed on appeal in forma pauperis is denied by the district court, you must either pay the required \$500.00 docketing fee PLUS the \$5.00 notice of appeal filing fee to the District Court Clerk, within fourteen (14) days after service of notice of the action to the district court, or within thirty (30) days of that date, renew your motion to proceed on appeal in forma pauperis with this court. If the motion is renewed in this court, it must comply with the terms of Fed. R. App. P. 24(a). In addition, you must provide this court with a brief memorandum explaining why you contend the district court's denial of leave to proceed on appeal in forma pauperis is erroneous. **NOTE:** The document should be titled "**MEMORANDUM IN SUPPORT OF PLRA MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS**" and must be filed within thirty (30) days of service of the order of the district court.

Further, this appeal is subject to the Prison Litigation Reform Act. Accordingly,

IT IS ORDERED that all other proceedings in this appeal are **SUSPENDED** pending the assessment and payment of any necessary fees. See *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). The court will take no further action in this appeal until the fee status is resolved.

Neither party should tender any brief or motion that is not related to appellant's fee status on appeal. Appellee is under no obligation either to file a brief or to respond to any such motion filed by appellant. Any motion not related to appellant's fee status will be deemed denied without further court action.

form name: c7_PLRA_FeeNoticeSent_DC (form ID: 227)

Appendix C

USDC IN/ND case 3:22-cv-00403-DRL-MGG document 39 filed 03/09/23 page 1 of 1

Case: 22-2985 Document: 00714158883 Filed: 03/09/2023 Pages: 1

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

March 9, 2023

By the Court:

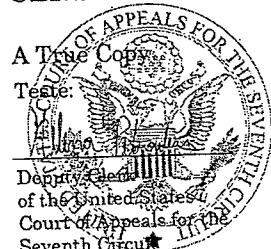
No. 22-2985	<p>JERRY A. SMITH, Plaintiff - Appellant</p> <p>v.</p> <p>JOHN GALIPEAU, et al., Defendants - Appellees</p>
Originating Case Information: <p>District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty</p>	

Upon consideration of the LETTER, which the court construes as a motion to recall the mandate, filed on March 9, 2023, by the pro se appellant,

IT IS ORDERED that the motion to recall the mandate is GRANTED. The court's final order dated January 6, 2023, is VACATED, the mandate is RECALLED, and this appeal is REINSTATED. This appeal is proceeding to a determination of appellant's fee status on appeal. A review of the court's docket shows that the appellant's motion for leave to proceed on appeal in forma pauperis remains pending in the district court. Further, any challenge to the amount of money being collected should be made in the district court. The clerk shall send the appellant a copy of the court's public docket.

form name: c7_Order_BTC (form ID: 178)

CERTIFIED COPY



Case: 22-2985 Document: 11-2 Filed: 03/16/2023 Pages: 2

Appendix C

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

PLRA FEE NOTICE AND ORDER

March 16, 2023

	JERRY A. SMITH, Plaintiff - Appellant
No. 22-2985	v. JOHN GALIPEAU, et al., Defendants - Appellees
Originating Case Information: District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty Clerk/Agency Rep Chanda J. Berta	

This court's records indicate that on March 16, 2023, the District Court denied your motion to proceed in forma pauperis. Pursuant to Federal Rule of Appellate Procedure 24(a),

WITHIN THE NEXT THIRTY (30) DAYS YOU MUST EITHER:

1. Pay the required \$500.00 docketing fee PLUS the \$5.00 notice of appeal filing fee to the District Court Clerk, if you have not already done so. The Court of Appeals cannot accept this fee. You should keep a copy of the receipt for your records.
2. File a motion to proceed on appeal in forma pauperis with the Court of Appeals. This motion must be supported by a sworn affidavit in the form prescribed by **Form 4 of the Appendix of Forms to the Federal Rules of Appellate Procedure (as amended 12/01/2018)**, listing the assets and income of the appellant(s). In addition, you must provide this court with a brief memorandum explaining why you contend the district court's denial of leave to proceed on appeal in forma pauperis is erroneous. **NOTE:** The document should be titled "MEMORANDUM IN SUPPORT OF PLRA MOTION FOR LEAVE TO PROCEED ON APPEAL IN

Case: 22-2985 Document: 11-2 Filed: 03/16/2023 Pages: 2

FORMA PAUPERIS" and must be filed within thirty (30) days of service of the order of the district court.

Further, this appeal is subject to the Prison Litigation Reform Act. Accordingly,

IT IS ORDERED that all other proceedings in this appeal are **SUSPENDED** pending the assessment and payment of any necessary fees. See *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). The court will take no further action in this appeal until the fee status is resolved.

Neither party should tender any brief or motion that is not related to appellant's fee status on appeal. Appellee is under no obligation either to file a brief or to respond to any such motion filed by appellant. Any motion not related to appellant's fee status will be deemed denied without further court action.

form name: c7_PLRA_FeeNoticeSent_AC (form ID: 226)

Appendix C

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

March 20, 2023

By the Court:

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
-------------	--

Originating Case Information:

District Court No: 3:22-cv-00403-DRL-MGG
Northern District of Indiana, South Bend Division
District Judge Damon R. Leichty

The following is before the court: LETTER, filed on March 17, 2023, by the pro se appellant.

This appeal is subject to the Prison Litigation Reform Act and therefore all proceedings will remain suspended until the appellant's fee status has been determined. *See Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). A review of the docket shows that the appellant's fee status has not yet been determined. Specifically, on March 16, 2023, the district court denied the appellant's motion for leave to proceed on appeal in forma pauperis. The deadline for appellant to either pay the \$505.00 appellate filings fees or file a motion for leave to proceed on appeal in forma pauperis and PLRA memorandum in support with the clerk of this court is April 17, 2023. Accordingly,

IT IS ORDERED that any relief requested is DENIED without court action, pursuant to the court's fee notice and order dated November 2, 2022. Further, any challenge to the amount of money being collected should be made in the district court. The appellant is reminded that he should file paper copies of documents being filed in this appeal with the clerk of this court.

Case: 22-2985 Document: 1-3

Filed: 11/02/2022 Pages: 1

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF DOCKETING - Short Form

November 2, 2022

To: Gary T. Bell
Clerk of Court

The below captioned appeal has been docketed in the United States Court of Appeals for the
Seventh Circuit:

Appellate Case No: 22-2985

Caption:
JERRY A. SMITH,
Plaintiff - Appellant

v.

JOHN GALIPEAU, et al.,
Defendants - Appellees

District Court No: 3:22-cv-00403-DRL-MGG

District Judge Damon R. Leichty
Clerk/Agency Rep Gary T. Bell

Date NOA filed in District Court 11/02/2022

If you have any questions regarding this appeal, please call this office.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

February 3, 2023

By the Court:

<p>No. 22-2985</p>		<p>JERRY A. SMITH, Plaintiff - Appellant</p> <p>v.</p> <p>JOHN GALIPEAU, et al., Defendants - Appellees</p>
<p>Originating Case Information:</p> <p>District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty</p>		

The following is before the court: LETTER, which the court construes as a motion to recall the mandate, filed on February 2, 2023, by the pro se appellant.

A review of the court's docket shows that this appeal was dismissed pursuant to Circuit Rule 3(b). The court has no record of the appellant filing a motion for leave to proceed on appeal in forma pauperis in this court. A review of the district court docket indicates that the appellant has neither paid the required \$505.00 appellate filing fees nor filed a motion for leave to proceed on appeal in forma pauperis in the district court. Accordingly,

IT IS ORDERED that the motion to recall the mandate is DENIED without prejudice to renewal in a motion that includes confirmation that the appellant either paid the required \$505.00 appellate fees or filed a motion for leave to proceed on appeal in forma pauperis in the district court. Any such motion is due by March 6, 2023. The clerk shall send the appellant a copy of the court's public docket.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

PLRA FEE NOTICE AND ORDER

November 2, 2022

No. 22-2985	<p>JERRY A. SMITH, Plaintiff - Appellant</p> <p>v.</p> <p>JOHN GALIPEAU, et al., Defendants - Appellees</p>
<p>Originating Case Information:</p> <p>District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty Clerk/Agency Rep Gary T. Bell</p>	

Circuit Rule 3(b) empowers the clerk to dismiss an appeal if the docket fee is not paid within fourteen (14) days of the docketing of the appeal. This appeal was docketed on November 2, 2022. The District Court has indicated that as of November 2, 2022, the docket fee has not been paid. Depending on your situation, you should:

1. Pay the required \$500.00 docketing fee PLUS the \$5.00 notice of appeal filing fee to the District Court Clerk, if you have not already done so. The Court of Appeals cannot accept this fee. You should keep a copy of the receipt for your records.
2. File a motion to proceed on appeal in forma pauperis with the District Court, along with a certified copy of your prison trust account statement for the six (6) month period preceding the filing of the notice of appeal, if you have not already done so. An original and three (3) copies of that motion is required. This motion must be supported by a sworn affidavit in the form prescribed by Form 4 of the *Appendix of Forms to the Federal Rules of Appellate Procedure* (as amended 12/01/2013), listing the assets and income of the appellant(s).

3. If the motion to proceed on appeal in forma pauperis is denied by the district court, you must either pay the required \$500.00 docketing fee PLUS the \$5.00 notice of appeal filing fee to the District Court Clerk, within fourteen (14) days after service of notice of the action to the district court, or within thirty (30) days of that date, renew your motion to proceed on appeal in forma pauperis with this court. If the motion is renewed in this court, it must comply with the terms of Fed. R. App. P. 24(a). In addition, you must provide this court with a brief memorandum explaining why you contend the district court's denial of leave to proceed on appeal in forma pauperis is erroneous. NOTE: The document should be titled "**MEMORANDUM IN SUPPORT OF PLRA MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS**" and must be filed within thirty (30) days of service of the order of the district court.

Further, this appeal is subject to the Prison Litigation Reform Act. Accordingly,

IT IS ORDERED that all other proceedings in this appeal are **SUSPENDED** pending the assessment and payment of any necessary fees. See *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). The court will take no further action in this appeal until the fee status is resolved.

Neither party should tender any brief or motion that is not related to appellant's fee status on appeal. Appellee is under no obligation either to file a brief or to respond to any such motion filed by appellant. Any motion not related to appellant's fee status will be deemed denied without further court action.

form name: *c7_PLRA_FeeNoticeSent_DC* (form ID: 227)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722-219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

NOTICE OF ISSUANCE OF MANDATE

January 6, 2023

To: Gary T. Bell
UNITED STATES DISTRICT COURT
Northern District of Indiana
South Bend, IN 46601-0000

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty	

Herewith is the mandate of this court in this appeal, along with the Bill of Costs, if any. A certified copy of the opinion/order of the court and judgment, if any, and any direction as to costs shall constitute the mandate.

CHOOSE ONE OF THE FOLLOWING:

no record to be returned

form name: c7_Mandate (form ID: 135)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

May 12, 2023

By the Court:

No. 22-2985	<p>JERRY A. SMITH, Plaintiff - Appellant</p> <p>v.</p> <p>JOHN GALIPEAU, et al., Defendants - Appellees</p>
Originating Case Information: District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty	

Upon consideration of the REQUEST FOR RESPONSE TO INTERROGATORIES, filed on May 11, 2023, by the pro se appellant,

IT IS ORDERED that the motion is DENIED without court action, pursuant to the court's fee notice and order dated November 2, 2022.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

May 10, 2023

By the Court:

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
-------------	--

Originating Case Information

District Court No: 3:22-cv-00403-DRL-MGG
Northern District of Indiana, South Bend Division
District Judge Damon R. Leichty

The following are before the court:

1. LETTER, filed on May 10, 2023, by the pro se appellant.
2. MOTION TO SUBPOENA WITNESS FOR DEPOSITION AND SET DATE, filed on May 10, 2023, by the pro se appellant.
3. REQUEST FOR RESPONSE TO INTERROGATORIES, filed on May 10, 2023, by the pro se appellant.
4. PRISONER MOTION FOR APPOINTMENT OF COUNSEL, filed on May 10, 2023, by the pro se appellant.

IT IS ORDERED that the motions are DENIED without court action, pursuant to the court's fee notice and order dated November 2, 2022.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT



Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

April 21, 2023

By the Court:

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
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Originating Case Information:

District Court No: 3:22-cv-00403-DRL-MGG
Northern District of Indiana, South Bend Division
District Judge Damon R. Leichty

The following are before the court:

1. MOTION FOR DECLARATORY JUDGMENT, filed on April 20, 2023, by the pro se appellant.
2. MOTION FOR SUPOENAS/ORAL DEPOSITIONS, filed on April 20, 2023, by the pro se appellant.
3. MOTION TO SUBPOENA WITNESS FOR DEPOSITION AND SET DATE, filed on April 20, 2023, by the pro se appellant.
4. LETTER, filed on April 20, 2023, by the pro se appellant.
5. MOTION, filed on April 20, 2023, by the pro se appellant.

To the extent that the appellant seeks an extension of time,

IT IS ORDERED that the request is **GRANTED**. The appellant shall either pay the \$505.00 required appellate filing fees in the district court or file a motion for leave to proceed on appeal in forma pauperis and PLRA memorandum in support with the clerk of this court by May 22, 2023. Failure to do so may result in the dismissal of this appeal. The clerk shall send the appellant an asset affidavit form.

IT IS FURTHER ORDERED that any other relief requested is **DENIED** without court action, pursuant to the court's fee notice and order dated November 2, 2022.

form name: c7_Order_BTC (form ID: 178)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

May 10, 2023

By the Court:

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
-------------	--

Originating Case Information:

District Court No: 3:22-cv-00403-DRL-MGG
Northern District of Indiana, South Bend Division
District Judge Damon R. Leichty

The following are before the court:

1. PRELIMINARY INJUNCTION, filed on May 9, 2023, by the pro se appellant.
2. MOTION TO COMPEL PRODUCTION OF DOCUMENTS, filed on May 9, 2023, by the pro se appellant.

This appeal is subject to the Prison Litigation Reform Act and therefore all proceedings are suspended pending the assessment and payment of any necessary fees. *See Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). A review of the docket indicates that the appellant's fee status has not yet been determined. Specifically, the appellant's motion for leave to proceed on appeal in forma pauperis is currently pending before this court. Accordingly,

IT IS ORDERED that the motions are DENIED without court action, pursuant to the court's fee notice and order dated November 2, 2022.

Case: 22-2985 Document: 25 Filed: 05/10/2023 Pages: 1

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
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ORDER

May 10, 2023

By the Court:

	JERRY A. SMITH, Plaintiff - Appellant
No. 22-2985	v. JOHN GALIPEAU, et al., Defendants - Appellees
Originating Case Information: District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty	

The following are before the court:

1. PRELIMINARY INJUNCTION, filed on May 9, 2023, by the pro se appellant.
2. MOTION TO COMPEL PRODUCTION OF DOCUMENTS, filed on May 9, 2023, by the pro se appellant.

This appeal is subject to the Prison Litigation Reform Act and therefore all proceedings are suspended pending the assessment and payment of any necessary fees. *See Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). A review of the docket indicates that the appellant's fee status has not yet been determined. Specifically, the appellant's motion for leave to proceed on appeal in forma pauperis is currently pending before this court. Accordingly,

IT IS ORDERED that the motions are DENIED without court action, pursuant to the court's fee notice and order dated November 2, 2022.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

May 22, 2023

By the Court:

Originating Case Information:	
	District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty

Upon consideration of the **MOTION FOR COURT ACTION**, filed on May 19, 2023,

IT IS ORDERED that the motion is **DENIED** without court action, pursuant to the court's fee notice and order dated November 2, 2022.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT



Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604

Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

May 26, 2023

By the Court:

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
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Originating Case Information:
District Court No: 3:22-cv-00403-DRL-MGG
Northern District of Indiana, South Bend Division
District Judge Damon R. Leichty

The following is before the court: **MOTION FOR CLARIFICATION**, filed on May 23, 2023, by the pro se appellant.

This appeal is subject to the Prison Litigation Reform Act and therefore all proceedings will remain suspended until the appellant's fee status has been determined. *See Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). A review of the district court's docket shows that on March 16, 2023, the district court denied the appellant's motion for leave to proceed on appeal in forma pauperis and the appellant has not yet paid the \$505.00 appellate filing fees. The appellant's fee status on appeal has not yet been determined. Specifically, the appellant's motion for leave to proceed on appeal in forma pauperis is currently pending before this court. Accordingly,

IT IS ORDERED that any relief requested is **DENIED** without court action, pursuant to the court's fee notice and order dated November 2, 2022. Further, any challenge or inquiry regarding the amount of money being collected or whether payments have been applied to a particular case should be made in the district court.

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen
United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



Office of the Clerk
Phone: (312) 435-5850
www.ca7.uscourts.gov

ORDER

June 5, 2023

Before

ILANA DIAMOND ROVNER, *Circuit Judge*
MICHAEL Y. SCUDDER, *Circuit Judge*

No. 22-2985	JERRY A. SMITH, Plaintiff - Appellant v. JOHN GALIPEAU, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 3:22-cv-00403-DRL-MGG Northern District of Indiana, South Bend Division District Judge Damon R. Leichty	

The following are before the court:

1. **AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**, filed on May 5, 2023, by the pro se appellant.
2. **MEMORANDUM IN SUPPORT OF PLRA MOTION FOR LEAVE TO PROCEED ON APPEAL IN FORMA PAUPERIS**, filed on May 5, 2023, by the pro se appellant.
3. **PRISONER TRUST FUND ACCOUNT STATEMENT**, filed on May 9, 2023, by the pro se appellant.

Upon consideration of the request for leave to proceed as a pauper on appeal, the appellant's motion filed under Federal Rule of Appellate Procedure 24, the district

court's order pursuant to 28 U.S.C. § 1915(a)(3) certifying that the appeal was filed in bad faith, and the record on appeal,

IT IS ORDERED that the motion for leave to proceed on appeal in forma pauperis is **DENIED**. The appellant has not identified a good faith argument that the district court erred in dismissing his complaint as frivolous. The appellant shall pay the required docketing fee within 14 days, or this appeal will be dismissed for failure to prosecute pursuant to Circuit Rule 3(b).

form name: c7_Order_3J (form ID: 177)

**Additional material
from this filing is
available in the
Clerk's Office.**