

IN THE UNITED STATES DISTRICT COURT FOR  
THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA, )  
)  
Plaintiff, )  
)  
v. )  
)  
CRAIG T. WILLIAMS, )  
)  
Defendant. )

Case No. 99-10092 -WEB

MEMORANDUM AND ORDER

Before the court is the Defendant's Motion for Leave to Appeal In Forma Pauperis (Doc. 98). The Defendant has filed an appeal of the court's denial of his Motion to Amend pursuant to Rule 60.

A prisoner seeking to proceed in forma pauperis shall submit to the court a "certified copy of the trust fund account statement ... for the 6 month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined." 28 U.S.C. § 1915(a)(2). The Defendant has submitted a certificate that states the amount of money in his trust account currently, and the average balance over the past 6 months. The court finds that the average balance shows the Defendant has adequate money to pay the cost of appeal.

Even if the court determined that the Defendant did not have sufficient funds in his trust account to pay the costs of the appeal, the court finds that the action is frivolous, therefore IFP status is not appropriate. Ragan v. Cox, 305 F.2d 58, 60 (10th Cir. 1962).

IT IS THEREFORE ORDERED the Defendant's Motion for Leave to Appeal In Forma

Pauperis (Doc. 98) is DENIED.

IT IS SO ORDERED this 21st day of May, 2010.

s/ Wesley E. Brown  
Wesley E. Brown  
United States Senior District Court Judge