

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ROLLY O. KINNELL,

Plaintiff,

vs.

CIVIL ACTION
No. 02-3228-SAC

U.S.A., et al.,

Defendants.

ORDER

By an orders dated October 10, 2005 and February 15, 2006, the court denied plaintiff's motions for relief from judgment. Before the court is plaintiff's notice of appeal (Doc. 15).

Plaintiff did not prepay the \$255.00 appellate filing fee, and is clearly subject to the "three-strike" provision in 28 U.S.C. § 1915(g) that disallows him from proceeding in forma pauperis in this matter absent a showing of imminent danger of serious physical injury.¹ Finding nothing in plaintiff's pleading or the record to warrant this exception to 28 U.S.C. § 1915(g), the court denies plaintiff leave to proceed in forma pauperis on appeal.

IT IS THEREFORE ORDERED that plaintiff is denied leave to proceed in forma pauperis on appeal.

IT IS SO ORDERED.

¹See 28 U.S.C. § 1915(g) ("In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.").

DATED: This 4th day of April 2006 at Topeka, Kansas.

s/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge