

2003 WL 23170805

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United States District Court,  
W.D. Wisconsin.

Dennis E. JONES'EL, Micha'El Johnson,  
De'Ondre Conquest, Luis Nieves, Scott Seal, Alex  
Figueroa, Robert Sallie, Chad Goetsch, Edward  
Piscitello, Quintin L'Minggio, Lorenzo Balli,  
Donald Brown, Christopher Scarver, Benjamin  
Biese, Lashawn Logan, Jason Pagliarini, and  
Andrew Collette, and all others similarly situated,  
Plaintiffs,

v.

Gerald BERGE and Jon Litscher, Defendants.

No. 00-C-421-C. | March 11, 2003.

**Attorneys and Law Firms**

Stephen P. Hurley, Edward R. Garvey, for Plaintiffs.

James E. Mccambridge, Assistant Attorney General,  
Wisconsin Department of Justice, Madison, WI, for  
Defendants.

**Opinion**

**ORDER**

CRABB, J.

\*1 On February 6, 2003, I denied plaintiff Evelio Duarte-Vestar's request for leave to proceed *in forma pauperis* on appeal because I concluded that his appeal was not taken in good faith. On March 4, 2003, in response to plaintiff's motion to reconsider the February 6 order, I advised plaintiff that his failure to challenge within 30 days this court's denial of his request for leave to proceed *in forma pauperis* on appeal ends the process *unless* he can persuade the court of appeals to allow him to file an untimely motion to proceed *in forma pauperis* under Fed. R.App. P. 24(a)(5).

Now plaintiff has filed another notice of appeal dated March 4, 2003, which likely crossed in the mail with this court's March 4 order. To reiterate what I told plaintiff in the March 4 order, if plaintiff wishes to persuade the court of appeals to allow him to file an untimely motion to proceed *in forma pauperis* on appeal, he must file a motion with the court of appeals, not another notice of appeal with this court.

Accordingly, IT IS ORDERED that plaintiff Evelio Duarte-Vestar's second request for leave to proceed on appeal *in forma pauperis* on appeal is DENIED as moot.