

**FILED**  
United States Court of Appeals  
Tenth Circuit  
FEB 5 1991

UNITED STATES COURT OF APPEALS  
TENTH CIRCUIT

ROBERT L. HOECKER  
Clerk

PAUL FAZZINI,  
Plaintiff-Appellant,

v.

WARDEN OF EL RENO, FCI;  
ASSOCIATE WARDEN OF TRANSPORTA-  
TION; UNIT MANAGER KRESS;  
COUNSELOR FELTON,

Defendants-Appellees.

No. 90-6243  
(D.C. No. CIV-90-875-A)  
(W.D. Okla.)

ORDER

Before LOGAN, SEYMOUR, and TACHA, Circuit Judges.

This matter is before the court on appellant's motion for leave to proceed on appeal without prepayment of costs or fees.

In order to succeed on his motion, an appellant must show both:

1. A financial inability to pay the required filing fees and
2. the existence of a reasoned, nonfrivolous argument on the law and facts in support of the issues raised on appeal.

See 28 U.S.C. § 1915(a); Coppedge v. United States, 369 U.S. 438 (1962); Ragan v. Cox, 305 F.2d 58 (10th Cir. 1962).

We are not persuaded the district court erred in requiring exhaustion of administrative remedies. We therefore conclude that appellant can make no rational argument on the law or facts in support of the issues raised on appeal, as required by paragraph two above. In making this determination, we have not considered any issues previously raised before the district court in this case. The motion for leave to proceed on appeal without prepayment of costs or fees is denied.

It is further ordered as follows:

1. The filing fee is waived;
2. The appeal is DISMISSED because no rational argument can be made; and
3. The mandate shall issue forthwith.

Entered for the Court

Stephanie K. Seymour  
Circuit Judge