

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SCOTT A. HEIMERMANN,

Petitioner,

v.

JON E. LITSCHER, MICHAEL J.
SULLIVAN, CINDY O'DONNELL,
STEPHEN M. PUCKETT, STEVEN
B. CASPERSON, CLEO ASHWORTH,
TIMOTHY DOUMA, PHILIP KINGSTON,
JOHN DEHAAN and JOHN DOE and
RICHARD ROE,

Respondents.

ORDER

02-C-411-C

In an order entered on August 30, 2002, I denied petitioner Scott Heimermann's request for leave to proceed in forma pauperis in this case on the ground that he is not eligible for pauper status by virtue of 28 U.S.C. § 1915(g), the Prison Litigation Reform Act's three strikes provision. The court's discovery of Heimermann's three strikes did not occur, however, until after he had been assessed and had paid an initial partial payment of the filing fee in the amount of \$23.00. In the August 30 order, I advised Heimermann that he could take one of three courses of action: 1) he could pay the balance of the filing fee and

request that the court process his complaint; 2) he could pay the balance of the filing fee and advise the court he did not intend to pursue the lawsuit; or 3) he could file a notice of appeal challenging this court's finding that he has incurred three strikes and is no longer eligible to proceed in forma pauperis so long as he is a prisoner. Heimermann appealed. On February 4, 2003, the court of appeals dismissed Heimermann's appeal and imposed a fine of \$5000 on Heimermann as a sanction for repeatedly filing frivolous pleadings attacking his Wisconsin murder conviction. At that time, because the court of appeal did not find that this court's decision to bar Heimermann from proceeding in forma pauperis because of his three-strike status was erroneous, Heimermann once again owed the balance of the fee for filing his complaint in this court. Petitioner Heimermann has not made any payments subsequent to the \$23.00 he paid on July 29, 2002.

ORDER

IT IS ORDERED that petitioner Heimermann is to submit a check or money order to the clerk of court in the amount of \$127.00, which amount he owes as the remainder of the \$150 fee for filing this case.

Further, IT IS ORDERED that if petitioner Heimermann does not have a sufficient amount of money in his regular prison account to pay the remainder of the filing fee in this case, then prison officials may collect the balance in monthly installments pursuant to 28

U.S.C. § 1915(b)(2).

Entered this 29th day of August, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge