

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

TONIE CURTIS COTTON,

Petitioner,

v.

ORDER

03-C-468-C

PHIL KINGSTON (Warden);
TIMOTHY DOUMA (Security Director);
ASHWORTH (Lieutenant);
NEWMAN (Correctional Officer; Sargent); and
PAT SIEDSCHLAG (Health Services Supervisor),

Respondents.

In an order entered on September 17, 2003, Magistrate Judge Stephen Crocker gave petitioner Tonie Curtis Cotton, until October 6, 2003, in which to pay \$4.44 as an initial partial payment of the \$150 fee for filing this case. The magistrate judge advised petitioner that if, by October 6, 2003, he failed to pay the initial partial payment or show cause for his failure to do so, he would be held to have withdrawn this action voluntarily. Now petitioner has written to say that he has \$.07 in his regular account and \$.48 in his release account. He states that although he has written to "contacts" in an attempt to obtain the money to pay the initial partial payment, he does not believe he will be able to secure the assessed sum before the October 6 deadline. I construe petitioner's letter as a motion for an enlargement

of time in which to pay the initial partial payment he has been assessed. The motion will be granted.

The trust fund account statement petitioner submitted with his complaint shows that beginning in May 2003, petitioner began receiving modest deposits to his inmate account every two weeks until August 28, 2003, when the payments appear to have stopped. If petitioner no longer has a biweekly income, he should advise the court of that fact so that a determination can be made whether he qualifies to proceed without prepayment of an initial partial payment pursuant to 28 U.S.C. § 1915(b)(4).

ORDER

IT IS ORDERED that petitioner may have an enlargement of time to October 20, 2003, in which to submit either 1) a check or money order made payable to the clerk of court in the amount of \$4.44 as payment of the initial partial payment assessed in this case, or 2) a trust fund account statement for the period beginning August 28, 2003 and ending in the early to mid part of October 2003, showing that he is no longer receiving deposits to his prison account from which the assessed amount can be paid. If, by October 20, 2003,

petitioner submits neither of these things, his action will be dismissed without prejudice for his failure to prosecute.

Entered this 3rd day of October, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge