

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

BRIAN T. PHEIL,

Petitioner,

ORDER

v.

03-C-487-C

MATTHEW J. FRANK, Secretary,
Wisconsin Department of Corrections,

Respondent.

On December 29, 2003, this court entered an order staying consideration of petitioner Brian T. Pheil's request for a certificate of appealability until petitioner submitted either the \$255 filing fee or an affidavit in support of his request for pauper status, as required by 28 U.S.C. § 1915(a)(1). On January 28, 2004, the court sent a letter to petitioner along with a financial affidavit and reminded him that he had still not paid the fee or submitted his affidavit.

It is now February 19, 2004, and petitioner still has not submitted either the filing fee or a financial affidavit showing that he is unable to pay the filing fee. Accordingly, because there is nothing in the record from which I can conclude that petitioner is entitled

to proceed in forma pauperis on appeal, I must deny his request for leave to appeal this court's judgment denying his habeas petition.

Dated this 19th day of February, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge