

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

LEONARD A. CHAMBERLAIN,

Petitioner,

v.

MARATHON COUNTY JAIL
and CAROLE LUEDTKE,

Respondents.

ORDER

04-C-698-C

In an order entered in this case on October 25, 2004, I assessed petitioner an initial partial payment of the \$150 filing fee in the amount of \$1.41. I told petitioner that if, by November 15, 2004, he failed to pay the initial partial payment or show cause for his inability to do so, I would consider that he had withdrawn this action voluntarily. Now petitioner has written to the court to ask that the assessment be removed. According to petitioner, he has no money in his inmate account and does not expect to receive additional deposits in the future. The trust fund account statement petitioner submitted with his complaint reveals that he has not received money to his inmate account since September 10, 2004.

Because it appears that petitioner presently has no means with which to pay an initial partial payment of the \$150 fee for filing his complaint, I will take his complaint under advisement pursuant to 28 U.S.C. § 1915(b)(4). However, petitioner should be aware that he remains obligated to pay the \$150 filing fee if and when he receives income to his account, even if this court determines that he will not be permitted to proceed with his complaint in forma pauperis.

Accordingly, IT IS ORDERED that the order entered on October 25, 2004, directing petitioner to pay an initial partial payment of the fee for filing this case is VACATED.

Further, IT IS ORDERED that petitioner's complaint is taken under advisement. As soon as the court's calendar permits, petitioner's complaint will be screened pursuant to 28 U.S.C. § 1915(e)(2) to determine whether the case must be dismissed either because the complaint is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief. Petitioner will be notified promptly when such a decision has been made.

Entered this 22nd day of November, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge