

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

---

JAMES M. UPTHEGROVE,

Petitioner,

v.

SGT. KUKA,  
C.O. MUHE,

Respondents.

---

ORDER

05-C-153-C

Petitioner James M. Upthegrove, a prisoner at the Jackson Correctional Institution in Black River Falls, Wisconsin, has submitted a proposed complaint. He asks for leave to proceed in forma pauperis. Because petitioner is a prisoner, he is subject to the 1996 Prisoner Litigation Reform Act. This means that before this court may decide whether he can proceed with his complaint in forma pauperis, petitioner will have to make an initial partial payment of the filing fee in the amount of \$36.14 and the remainder of the fee in monthly installments even if his request for leave to proceed is denied. If petitioner does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that petitioner is free to ask prison authorities to pay *all* of his filing fee

from his release account. The only amount petitioner must pay at this time is the \$36.14 initial partial payment. Before prison officials take any portion of that amount from petitioner's release account, they may first take from petitioner's regular account whatever amount up to the full amount petitioner owes.

#### ORDER

IT IS ORDERED that petitioner is assessed \$36.14 as an initial partial payment of the \$250 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$36.14 on or before April 1, 2005. If, by April 1, 2005, petitioner fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 11th day of March, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge