

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

JEFFREY P. SULASKI,

Petitioner,

v.

STEPHEN HOBART, Warden,

Respondent.

ORDER

05-C-746-C

Petitioner has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and requests leave to proceed in forma pauperis. He supports his request for leave to proceed in forma pauperis with an affidavit of indigency and a copy of a printed “inmate inquiry” showing the average balances in his prison account over the past six months. Because the “inmate inquiry” contains sufficient information to allow a determination of his eligibility for pauper status in this court, I will accept it as an institutional equivalent of a certified copy of his trust fund account statement as permitted under 28 U.S.C. § 1915(a)(2).

In determining whether a petitioner is indigent for the purpose of filing a § 2241 petition, this court calculates the average monthly deposits and the average monthly balances

in the petitioner's prison account for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, then the petitioner is not eligible for indigent status and must prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, the petitioner must prepay whatever portion of \$5 the 20% calculation works out to be.

Petitioner's trust fund account statement reveals that he has maintained a monthly balance of \$50.88 in his account and, over the past six months, has received deposits totaling \$157.21, for an average monthly deposit of \$26.20. Regardless which amount I use, petitioner does not qualify for indigent status. Twenty percent of the lesser of the two amounts (\$26.20) is \$5.24, which is more than the \$5 filing fee.

Accordingly, IT IS ORDERED that petitioner's request for leave to proceed in forma pauperis in this case is DENIED. Petitioner may have until January 19, 2006, in which to submit a check or money order made payable to the clerk of court in the amount of \$5 to cover the fee for filing his petition. If, by January 19, 2006, petitioner fails to pay the fee

or show cause why he is unable to do so, then the clerk of court is directed to close this file for petitioner's failure to prosecute.

Entered this 29th day of December, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge