

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

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JAMES R. SCHULTZ,

Petitioner,

v.

PAM WALLACE, Warden,  
Stanley Correctional Institution; and  
P. NICHOLS, Chippewa Valley  
Treatment Facility,

Respondents.  
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ORDER

05-C-751-C

Petitioner James R. Schultz has filed a second motion for reconsideration of the order entered in this case on May 18, 2006, denying his request that this court order prison authorities to exempt gift money he received to his inmate account from garnishment under 28 U.S.C. § 1915(b)(2). He argues that 15 U.S.C. § 1672 governs garnishment of an individual's earnings for payment of a debt, and that "earnings" in that context is defined as "wages, salaries, commissions, bonuses or pension payments."

Unfortunately for petitioner, the statute governing the collection of fees in his case is 28 U.S.C. § 1915(b)(2), not 15 U.S.C. 1672. Moreover, in Lucien v. DeTella, 141 F.3d

773, 776 (7th Cir. 1998), the Court of Appeals for the Seventh Circuit ruled expressly that the word “income” in § 1915(b)(2) means more than “earned income.”

Congress did not define the term “income” in § 1915(b), but it used several related terms: “income,” “deposits,” and “amount in the account.” These seem to be used as synonyms, which implies that “income” means “all deposits.” A prisoner therefore “shall forward 20% of whatever sums enter a prison trust account, disregarding the source. That some receipts are gifts or bequests from family members does not shelter them from § 1915(b)(2), as the prison seems to have supposed.

Because the law is settled in this circuit that gift money is not to be excluded from the definition of “income” an inmate might receive, there is no basis for petitioner’s repeated requests for an order exempting his gift money from collection to pay the filing fees he incurred in this case. If petitioner files any future motion seeking to bar collection of the filing fees he owes this court on the ground that his gift monies are exempt, it will be placed in his file and no response will be made to it.

Entered this 19th day of June, 2006.

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