

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

BRIAN RUSSELL LOCKE,

Petitioner,

ORDER

v.

06-C-196-S

GREGORY GRAMS,

Respondent.

The above petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 was transferred to this Court from the United States District Court for the Eastern District of Wisconsin. The Court's order stated that he had paid the filing fee but a review of the record shows he did not but is requesting leave to proceed in forma pauperis.

From an examination of the affidavit of indigency that petitioner has submitted, the Court finds that he is unable to prepay the costs and fees of commencing this action. Accordingly, petitioner's request to proceed in forma pauperis will be granted.

Petitioner alleges that his state court conviction is unconstitutional. Petitioner alleges that he has exhausted his state remedies. He has arguably stated a claim that his state court conviction is unconstitutional.

Accordingly,

ORDER

IT IS ORDERED that petitioner's request to proceed in forma pauperis is GRANTED.

IT IS FURTHER ORDERED that the respondent shall file and serve upon petitioner a response to the petition to include the state court record and any supporting brief not later than 20 days from the date of service this petition, showing cause, if any, why this writ should not issue. Affidavits may accompany the response. Petitioner may have 20 days from the service of the response to file and serve upon counsel for respondent a reply to the allegations of the response submitted by the respondent and any supporting brief. Affidavits may accompany the reply. Such affidavits shall raise no issues which have not already been raised in the petition and response. Affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served and filed therewith.

Entered this 12th day of April, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge