

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

CHARLES E. HENNINGS,

Plaintiff,

v.

DAVE DITTER,

Defendant.

ORDER

06-C-353-C

Plaintiff has filed a motion seeking an order from the court directing “the business office” at Waupun Correctional Institution to take money from his release account for the purpose of paying witness fees for his upcoming trial. Unfortunately for plaintiff, this court’s authority to issue injunctions directed at non-parties is extremely limited. In particular, I do not have authority to tell state officials whether and to what extent a prisoner should be able to withdraw money from his release account, with the exception of initial partial payments for the filing of a lawsuit. Carter v. Bennett, 399 F. Supp. 2d 936 (W.D. Wis. 2005).

As plaintiff recognizes in his motion, the question whether he is entitled to funds in his release account is a matter of state law. However, contrary to plaintiff’s argument, the

statute he cites, Wis. Stat. § 814.29(1)(e), does not grant him the right to use the funds in his release account for any court-related costs or fees. Rather, it simply requires a prisoner's custodian to "freeze" his trust fund account until he has sufficient funds to pay a court filing fee. As a general rule, "[r]elease account funds may not be disbursed for any reason until the inmate is released to field supervision." Wis. Admin. Code § DOC 309.466. Even if there were a state law in support of petitioner's position, it would not matter, because the Supreme Court has held that federal courts may not order state officials to comply with state law. Pennhurst State School & Hospital v. Halderman, 465 U.S. 89, 106 (1984).

ORDER

IT IS ORDERED that plaintiff's motion for an order from the court directing "the business office" at Waupun Correctional Institution to take money from his release account for the purpose of paying witness fees is DENIED.

Entered this 24th day of July, 2007.

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