

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

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JIMMIE ABERNATHY,

Petitioner,

v.

CARAVILLA HALFWAY HOUSE;  
T-DAP-CHICAGO;  
CATHY POLLARD, Halfway House Director; and  
NANCY WEIDE, Halfway House Assist. Dir.,

Respondents.  
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ORDER

06-C-667-C

Petitioner Jimmie Abernathy, an inmate at the Rock County jail in Janesville, Wisconsin, has submitted a proposed complaint. He requests leave to proceed in forma pauperis. A decision on the request will be delayed until petitioner pays an initial partial payment of the filing fee as required by 28 U.S.C. § 1915(b) and the 1996 Prison Litigation Reform Act. Petitioner's initial partial payment cannot be calculated at this time because the trust fund account statement he submitted with his complaint does not cover the full six-month period immediately preceding the filing of his complaint.

Petitioner's complaint was submitted on November 8, 2006. His trust fund account

statement should cover the period beginning approximately May 8, 2006 and ending approximately November 8, 2006. Instead, petitioner has submitted a cash register receipt showing that on November 7, 2006, he received \$50 into his jail account and that a “commissary balance” exists as of November 8, 2006, in the amount of \$36.78. This receipt is insufficient to satisfy the requirement in 28 U.S.C. § 1915(a)(2) that he submit a “certified copy of the trust fund account statement (or institutional equivalent)” for the relevant six-month period.

In support of his request for leave to proceed in forma pauperis, petitioner states that on August 17, 2006, he was transferred from the Oxford Correctional Institution to the Rock Valley Community Program Halfway House. At Oxford, petitioner earned a salary as a “chaplin clerk.” During his stay at the halfway house, petitioner worked on temporary work assignments. On “October 17 or 27,” 2006, United States Marshals picked up petitioner and transported him to the Rock County jail, where he has been ever since.

When a prisoner is incarcerated at one or more institutions during the six-month period immediately preceding the filing of his lawsuit, he is required under 28 U.S.C. § 1915(a)(2) to obtain a trust fund account statement “from the appropriate official of each prison at which [he] is or was confined” during the relevant period. Therefore, if petitioner wants to continue with this lawsuit, he will have to write to the Oxford Correctional Institution to request a certified copy of his trust fund account statement for the period

beginning approximately May 8, 2006 and ending August 17, 2006. In addition, he should obtain an inmate account statement from the Rock County jail showing the amount in his account as of the date of his arrival, whether it was October 17 or October 27, and reflecting deposits and withdrawals between that date and November 8, 2006. Finally, I note that in answering question 4.A.2. on this court's form for an affidavit of indigency, petitioner states that in early October, he worked for a temporary service in Janesville, but he did not indicate what he earned from that work as he is required to do. Therefore, petitioner must supplement his affidavit to indicate how much he earned during the time he worked for the temporary service.

#### ORDER

IT IS ORDERED that petitioner may have until December 22, 2006, in which to submit a trust fund account statement from the Federal Correctional Institution in Oxford, Wisconsin for the period beginning approximately May 8, 2006 and ending August 17, 2006, and from the Rock County jail for the period beginning on the date of his arrival in October and ending November 8, 2006. In addition, petitioner may have until December 22, 2006, in which to supplement his affidavit of indigency by writing the court to advise how much he earned from his work at the temporary service in Janesville.

Further, IT IS ORDERED that if, by December 22, 2006, petitioner fails to respond

to this order, I will assume that he wishes to withdraw this action voluntarily and the clerk of court is directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 20th day of November, 2006.

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