

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

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KEVIN BARNES,

Petitioner,

ORDER

v.

3:08-cv-00083-bbc

ROCK COUNTY SHERIFF SPODEN,

Respondent.

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Kevin Barnes, a pretrial detainee in custody in the Rock County Jail, has filed an application for a writ of habeas corpus. He requests permission to proceed in forma pauperis. He has supported his request with an affidavit of indigency along with a trust fund account statement from the institution.

In determining whether to allow a prisoner to proceed in forma pauperis, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to prepay the filing fee. According to the trust account statement, in the past six months petitioner's monthly

deposits have averaged \$24.77. Twenty percent of this figure is \$4.95. Accordingly, I will deny petitioner's application for leave to proceed in forma pauperis. He has the means to prepay most of the filing fee. The court will take no action on the petition until petitioner submits a filing fee in the amount of \$4.95.

#### ORDER

IT IS ORDERED that the petition of Kevin Barnes for leave to file a petition for a writ of habeas corpus without prepaying the filing fee is DENIED. Petitioner has until February 27, 2008 in which to submit a filing fee in the amount of \$4.95. If he does not submit the fee by February 27, 2008, then the court will dismiss his petition for his failure to prosecute it.

Entered this 13<sup>th</sup> day of February, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge