

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

LERVOLTIS LUCKETT,

Petitioner,

ORDER

v.

08-cv-449-slc

PETER HUIBREGTSE, Warden,
NURSE MORA,
ELLEN RAY, Examiner,
NURSE AMY and
DR. COX,

Respondents.

Petitioner Lervoltis Luckett, a prisoner at the Green Bay Correctional Institution in Green Bay, 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 August 3, 2008. His trust fund account statement should cover the period beginning approximately January 4, 2008 and ending approximately August 1, 2008. Instead, it covers a three-month period beginning May 9, 2008 and ending July 24, 2008. This statement shows that on May 9, 2008, a "cash on arrival" entry was made for \$0. If petitioner was incarcerated at another institution prior to his arrival at

Green Bay Correctional Institution on May 9, 2008, 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. In that case, petitioner will have to write to the correctional institution in which he was confined between January 4, 2008 and May 9, 2008, to request a certified copy of his trust fund account statement for that period. If petitioner was not incarcerated prior to May 9, 2008, he will have to complete and return an affidavit of indigency form for the same period. Once petitioner has submitted the necessary statement or affidavit of indigency, I will calculate his initial partial payment and advise him of the amount he will have to pay before the court can screen the merits of his complaint under § 1915(e)(2).

ORDER

IT IS ORDERED that petitioner may have until August 28, 2008, in which to submit either

1. A trust fund account statement from the institution where he was previously incarcerated for the period beginning approximately January 4, 2008 and ending approximately May 9, 2008, or
2. A completed affidavit of indigency form for the period beginning approximately January 4, 2008 and ending approximately May 9, 2008.

3. If, by August 28, 2008, petitioner fails to respond to this order, I will assume that he wishes to withdraw this action voluntarily and, in that case, the clerk of court is directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 7th day of August, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge