

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

JIMMY QUINTIN GREEN,

Petitioner,

ORDER

v.
C. HOLINKA,

08-cv-466-slc

Respondent.

Petitioner has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and requests leave to proceed *in forma pauperis*. He supports his request for leave to proceed *in forma pauperis* with an affidavit of indigency and a copy of his trust fund account statement covering the six-month period immediately preceding the filing of his petition.

In determining whether a petitioner is indigent for the purpose of filing a § 2241 petition, this court calculates the average monthly deposits and the average monthly balances in the petitioner's prison account for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, then the petitioner is not eligible for indigent status and must prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, the petitioner must prepay whatever portion of \$5 the 20% calculation works out to be.

Petitioner's trust fund account statement reveals that for the past six months petitioner has received deposits to his account in the amount of \$96.25. This means that petitioner's average monthly deposits over the same period is \$16.04, and that twenty percent of that

average is \$3.21. Therefore, I find that petitioner may proceed *in forma pauperis* in this action on the condition that he pay \$3.21 of the \$5 filing fee.

ORDER

IT IS ORDERED that petitioner's request for leave to proceed *in forma pauperis* in this case is GRANTED, on the condition that petitioner submit a check or money order made payable to the clerk of court in the amount of \$3.21 on or before September 3, 2008. If, by September 3, 2008, petitioner fails to pay the partial fee he has been ordered to submit, then the clerk of court is directed to close this file for petitioner's failure to prosecute. As soon as petitioner submits the required amount, the court will take under advisement his petition for a writ of habeas corpus for a determination whether it is appropriate to issue an order directing respondent to show cause why petitioner's petition should not be granted.

Entered this 14th day of August, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge