

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

DONALD DAVIS,

Petitioner,

ORDER

v.

09-cv-45-slc

ROCK COUNTY SHERIFF SPODEN
and Lt. JUDE MAURER,

Respondents.

Petitioner Donald Davis, a prisoner at the Rock County jail in Janesville, Wisconsin, has submitted a proposed complaint. He has not paid the \$350 filing fee or submitted a trust fund account statement covering the six-month period immediately preceding the filing of his complaint. Therefore, I construe petitioner's complaint to include a request for leave to proceed *in forma pauperis*. From a trust fund account statement petitioner submitted in another case in this court, Davis v. Spoden, case no. 09-cv-2-bbc, it appears that petitioner presently has no means with which to pay an initial partial payment of the \$350 fee for filing his complaint. However, petitioner should be aware that he is obligated to pay the \$350 filing fee, even if this court determines that he will not be permitted to proceed with his complaint *in forma pauperis* and even if he does not presently have funds with which to pay the fee. 28 U.S.C. § 1915(b)(1). His account will be monitored and the fee must be taken in monthly installments when the funds exist.

Accordingly, IT IS ORDERED that petitioner's complaint is taken under advisement. As

soon as the court's calendar permits, petitioner's complaint will be screened pursuant to 28 U.S.C. § 1915(e)(2) to determine whether the case must be dismissed either because the complaint is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief. Petitioner will be notified promptly when such a decision has been made.

Further, the clerk of court is requested to insure that the court's financial records reflect that petitioner owes the \$350 fee for filing this case, in accordance with the requirements of the Prison Litigation Reform Act.

Entered this 28th day of January, 2009.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge