

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

MICHAEL BILDERBACK,

Petitioner,

v.

KAREN LINDHOLM and
WILLIAM GABLER,

Respondents.

ORDER

09-cv-110-slc

Petitioner Michael Bilderback, a prisoner at the Eau Claire County jail in Eau Claire, 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 \$350 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 he has not submitted a trust fund account statement with his complaint.

28 U.S.C. § 1915(a)(2) states,

A prisoner seeking to bring a civil action . . . without prepayment of fees or security therefor, in addition to filing [an affidavit setting forth all assets the prisoner possesses], shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint

I am aware from petitioner's complaint that his incarceration at Eau Claire County jail has been for a short time only although he has not stated specifically the date on which he was taken into custody. In the affidavit of indigency petitioner submitted in support of his request to proceed *in forma pauperis*, he says that he predicts that his social security disability payments will discontinue on March 6, 2009, because he will have been incarcerated for over 30 days. It is clear that petitioner will not be able to provide a trust fund account statement for the

six-month period discussed above. Therefore, petitioner's trust fund account statement should cover the entire period of his recent incarceration at the Eau Claire County jail, whatever that may be. Once petitioner has submitted the necessary statement, 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 March 23, 2009, in which to submit a trust fund account statement for the period of his recent incarceration at the Eau Claire County jail as required by 28 U.S.C. § 1915(a)(2). If, by March 23, 2009, 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 3rd day of March, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge