

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

ALAN W. GURSKY,

Plaintiff,

v.

ORDER

10-cv-113-bbc

DEPARTMENT OF CORRECTIONS,
NEW LISBON CORRECTIONAL INSTITUTION,
TIMOTHY LUNDQUIST, ANA BOATWRIGHT,
KENNETH LOBENSTEIN, LINDA FAITH,
D. BELLILE, PATRICIA JAMES, LARRY FUCHS,
GERALD KONITZER, P. KANNENBERG,
MILDRED PARISE, GARCEAU, SANDRA
HAUTANTAK, ISMAEL OZANN, NANCY WOOD,
TOM GOZINSKE, KAREN GOURLIE,
WELCOME ROSE, LIZZIE TEGELS,
KIM KANNENBERG, DEBRA LANCE,
CANDACE WARNER, AMY SMITH,
N. GANTHER, LT. GREEN, SHARON ZUNKER,
C.O. REYNOLDS, LAE and THYNE,

Defendants.

On January 15, 2010, I dismissed this case for plaintiff's failure to state a claim. Now plaintiff has filed a letter asking the court to issue an order directing prison officials to pay the remaining balance of the filing fees in this case from his release account. I am denying this request.

Under the Prison Litigation Reform Act, an inmate who files a lawsuit in federal court under the in forma pauperis statute must pay the \$350 filing fee, first by making an initial partial payment and then by sending the remainder of the fee to the court in installments of 20% of the preceding month's income, in accordance with 28 U.S.C. § 1915(b)(2). On September 8, 2011, this court entered an order assessing plaintiff a \$3.46 initial partial payment of the filing fee for this case, which plaintiff paid on March 25, 2010.

Although it is good to know that plaintiff takes his obligation to pay seriously, I cannot order the state to allocate plaintiff's release account funds in the manner he requests. The language of 28 U.S.C. § 1915(b)(1) suggests that prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. Carter v. Bennett, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). However, with the exception of such initial partial payments, this court does not have the authority to tell state officials whether, and to what extent, a prisoner should be able to withdraw money from his release account. Because plaintiff cannot use his release account funds to pay the remaining balance of the \$350 filing fee or for his expenses in pursuing his claims, I will deny his motion.

ORDER

IT IS ORDERED that plaintiff Alan Gursky's request for an order directing prison officials to pay the remainder of his filing fee and legal expenses from his release account,

dk. #16, is DENIED.

Entered this 23d day of February, 2012.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge