

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

CHRISTOPHER M. SANDERS,

Plaintiff,

v.

JEFF PUGH and DR. SEARS,

Defendants.

ORDER

11-cv-202-slc

CHRISTOPHER M. SANDERS,

Plaintiff,

v.

WARDEN WALLACE, CAPTAIN CHADA
and MS. LUNDMARK,

Defendants.

ORDER

11-cv-206-slc

On March 22, 2011, I entered orders in these cases directing plaintiff to submit initial partial payments of the filing fees in the amount of \$40.59 for each case by April 13, 2011. Now before the court are motions submitted by plaintiff to waive the filing fees in these cases because plaintiff states that he is indigent due to his release from prison on March 30, 2011.

Unfortunately for plaintiff, in 28 U.S.C. § 1915, Congress has dictated the method by which prisoners must pay the fees for filing federal lawsuits and appeals, and because plaintiff was a prisoner at the time that he filed his complaint, this court has no power to modify this method. In calculating the amount of plaintiff's initial partial payments in these cases, I used the trust fund account statement he submitted in support of his request to proceed *in forma pauperis*. This statement showed that for the six-month period immediately preceding the filing of the complaints in these cases, plaintiff had an average monthly balance of \$202.98 in his account. Twenty percent of that amount is \$40.59. Because this court is bound by the

provisions of the Prison Litigation Reform Act and because it is clear plaintiff's initial partial payment was calculated correctly pursuant to these provisions, his motion for the court to waive his partial payments of the \$350 filing fee in each case will be denied.

It may well be that plaintiff will not be able to make the two \$40.59 payments. In his motions, plaintiff states he has only \$32.00 to his name. He further states that he is applying for public assistance and will receive social security disability monthly benefits of \$936.00 beginning in mid-May. Because plaintiff may be able to make the payments with a modest extension of the deadline, I willing provide an extension for him to pay these initial partial filing fees. If, however, by May 25, 2011, plaintiff is unable to pay the \$40.59 fee for either or both of these lawsuits, then I will presume that he has withdrawn these actions, which means that and he will not owe the filing fees. In that event, at some future time (within any applicable statutes of limitations), plaintiff could file new lawsuits along with a new petition to proceed without prepayment of fees and/or costs.

In plaintiff's motions, he also requests that the court appoint a lawyer to represent him. Plaintiff states that he currently is conducting his legal work out of the Marquette Law Library with the help of students, and only when he can find transportation. He further states that he is severely handicapped by his disability, his lack of money and his lack of knowledge of law or court procedures.

As a starting point, this court would appoint a lawyer to almost every pro se plaintiff if lawyers were available to take these cases. But they are not. Most lawyers do not have the time, the background or the desire to represent pro se plaintiffs in a pro bono capacity, and this court cannot make them. Congress has appropriated finds for court-appointed counsel in criminal

cases but it has not appropriated any funds for court-appointed counsel in civil cases like this one. Lawyers who accept appointments to represent pro se plaintiffs in civil cases can obtain compensation for their services only if they are successful and even then, the compensation may fall short of their time and effort. So the court only appoints counsel in cases where there is a demonstrated need, using the appropriate legal test.

In determining whether to appoint counsel, I must find first that plaintiff has made reasonable efforts to find a lawyer on his own and has been unsuccessful or that he has been prevented from making such efforts. *Jackson v. County of McLean*, 953 F.2d 1070, 1073 (7th Cir. 1992). To prove that he has made reasonable efforts to find a lawyer, plaintiff must give the court the names and addresses of at least three lawyers whom he asked to represent him in this case and who turned him down. Plaintiff has not yet taken this first step. But even if plaintiff had shown that he made a reasonable effort, this case has not gone far enough for me to determine how hard it really is and whether plaintiff can continue to handle it on his own, *Pruitt v. Mote*, 503 F.3d 647, 655 (7th Cir. 2007). So far, plaintiff's submissions have been coherent and well-organized and it appears that plaintiff can follow court instructions and make clear, intelligible arguments in his pleadings.

For what it's worth, plaintiff is in the same position as most other pro se litigants, almost none of whom have legal training of any kind. Plaintiff has personal knowledge of the incidents surrounding his claims. He should be able to obtain access to his own records to corroborate this information. Later on in the cases, plaintiff will be sent a written copy of the procedures, which are written for the very purpose of helping pro se litigants understand how civil litigation works.

In denying plaintiff's motions to appoint counsel, I stress that the rulings reflect my assessment of his ability to prosecute these cases at their current stage. If at some point disability keeps him from litigating the case, he is free to write to the court for additional clarification about procedures or renew his motions for appointment of counsel.

ORDER

IT IS ORDERED that:

1. Plaintiff's motions for the court to waive the filing fee in case nos. 11-cv-202-slc and 11-cv-206-slc are DENIED.
2. Plaintiff may have an enlargement of time to May 25, 2011, in which to submit a check or money order payable to the clerk of court in the amount of \$40.59 in case no. 11-cv-202-slc.
3. Plaintiff may have an enlargement of time to May 25, 2011, in which to submit a check or money order payable to the clerk of court in the amount of \$40.59 in case no. 11-cv-206-slc.
4. Plaintiff's motions for appointment of counsel in each case are DENIED.
5. If by May 25, 2011, plaintiff fails to make the initial partial payments or show cause for his failure to do so, he will be held to have withdrawn these actions voluntarily. In that event, the clerk of court is directed to close the files without prejudice to plaintiff's filing his cases at a later date.

Entered this 14th day of April, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge