## IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

RONALD P. LANE,

**ORDER** 

Petitioner,

11-cv-458-bbc

v.

WILLIAM POLLARD,

Respondent.

On September 1, 2011, I denied petitioner Ronald Lane's petition for a writ of habeas corpus under 28 U.S.C. § 2254 and denied his request for a certificate of appealability. Now petitioner has filed a notice of appeal. Because plaintiff has not paid the \$455 filing fee for filing an appeal, I will construe his notice of appeal as a request to proceed in forma pauperis on appeal.

Petitioner's appeal is not subject to the 1996 Prison Litigation Reform Act. Walker v. O'Brien, 216 F.3d 626, 628-629 (7th Cir. 2000) ("the PLRA does not apply to any requests for collateral relief under 28 U.S.C. §§ 2241, 2254, or 2255"). Nevertheless, in determining whether a petitioner is eligible for indigent status on appeal under 28 U.S.C. § 1915, the court must find both that the petitioner does not have the means to pay the \$455

fee for filing his appeal and that the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) and (3). I do not intend to certify that petitioner's appeal is not taken in good faith.

In determining whether a habeas corpus petitioner is eligible for pauper status, the court applies the formula set out in 28 U.S.C. § 1915(b)(1). Specifically, from the petitioner's trust fund account statement for the six-month period immediately preceding the filing of his appeal, I add the deposits made to petitioner's account and calculate 20% of the greater of the average monthly deposits or the average monthly balance in the account. If the 20% figure is more than the fee petitioner owes for filing his appeal, he may not proceed in forma pauperis. If the 20% figure is less than \$455, he must prepay whatever portion of the fee the calculation yields.

I cannot tell whether petitioner qualifies for indigent status on appeal because he has not submitted a trust fund account statement for the six-month period immediately preceding the filing of his notice of appeal. Therefore, I will stay a decision on petitioner's request for leave to proceed in forma pauperis pending his submission of the necessary trust fund account statement.

## ORDER

IT IS ORDERED that a decision whether petitioner may proceed <u>in forma pauperis</u> on appeal is STAYED. Petitioner may have until October 18, 2011 in which to submit a trust fund account statement for the six-month period beginning approximately March 22, 2011 and ending approximately September 22, 2011. If, by October 18, 2011, petitioner fails to submit the necessary trust fund account statement, I will deny his request for leave to proceed <u>in forma pauperis</u> on appeal for his failure to show that he is entitled to indigent status on appeal.

Entered this 26th day of September, 2011.

BY THE COURT: /s/ BARBARA B. CRABB District Judge