

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

BENJAMIN WALKER,

Petitioner,

v.

WILLIAM POLLARD, Warden,

Respondent.

ORDER

11-cv-618-bbc

Petitioner Benjamin Walker, a prisoner at the Waupun Correctional Institution in Waupun, Wisconsin, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He requests leave to proceed in forma pauperis. Petitioner has supported his request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed in forma pauperis, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period immediately preceding the filing of his habeas corpus petition. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee.

If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to pay at least a portion of the filing fee. According to the trust account statement, petitioner's average monthly deposits have been \$9.20 in the past six months. (His average monthly balance in his regular account is less than this amount.) Twenty percent of this figure is \$1.84. Accordingly, I will grant petitioner's application for leave to proceed in forma pauperis on the condition that he prepay \$1.84.

ORDER

IT IS ORDERED that the petition of Benjamin Walker for leave to proceed in forma pauperis is GRANTED on the condition that he prepay the amount of \$1.84. Petitioner has until September 29, 2011 to pay this amount. If he fails to submit the partial filing fee by September 29, 2011, his petition may be dismissed for failure to prosecute it.

Entered this 7th day of September, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge