

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

THOMAS C. SMITH,

Petitioner,

ORDER

v.

13-cv-337-wmc

MICHAEL MEISNER,

Respondent.

State inmate Thomas C. Smith has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging a state court conviction. The respondent has filed an answer, along with state court records, and both parties have submitted briefing. Smith now seeks an order directing prison officials to allow him to use the funds in his release savings account to pay certain costs incurred in litigating this case. In particular, Smith requests access to funds in his release account to pay for postage and copies. His motion will be denied for reasons set forth briefly below.

First of all, Smith does not explain why postage and copies are needed at this point in the case because briefing has been completed and there are no imminent deadlines. Secondly, he does not show that release account funds are available for legal supplies, postage or copies. The use of inmate release account funds is governed by state law. *See* Wis. Admin. Code § DOC 309.466. According to § 309.466(2), “[r]elease account funds may not be disbursed for any reason until the inmate is released to field supervision, except to purchase adequate clothing for release and for out-of-state release

transportation.” While the Supremacy Clause of the United States Constitution requires state law to give way to a competing federal law in rare instances, *see Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005), there is no federal law that requires state officials to give prisoners money from their release account to pay the costs of legal supplies. Accordingly, the court will deny Smith’s motion to use funds from his release account.

ORDER

IT IS ORDERED that plaintiff Harrison Franklin’s motion to use funds from his release account (Dkt. # 38) is DENIED.

Entered this 21st day October, 2014.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge