

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

JERRY CHARLES,

Plaintiff,

v.

DICK VERHAGEN and JON LITSCHER,

Defendants.

ORDER

01-C-253-C

In an order dated October 30, 2002, plaintiff was given until November 20, 2002, in which to submit a certified copy of his trust fund account statement so that the court could calculate an initial partial payment of the appellate filing fee in this case. Now plaintiff has written the court stating that he has obtained legal counsel for his appeal and asking for an extension of time in which to submit his trust fund account statement because his “attorneys may pay the filing fee, as soon as authorization is received at their firm.” Because the November 20 deadline by which plaintiff must file his trust fund account statement is imminent, I will grant him a short extension of time in which to file the statement, but not because he now has legal counsel. Indeed, if plaintiff has legal counsel, they have not yet made an appearance in his case. The docket sheet in the Court of Appeals

for the Seventh Circuit for this case shows that plaintiff is still representing himself pro se. Once plaintiff submits a trust fund account statement I will calculate an initial partial payment of the appellate filing fee and set a date by which the court must receive that payment. It will not matter whether plaintiff makes the payment or whether his attorneys, if he has them, make the payment for him as assessed or in full. Under any circumstances, the initial partial payment must be made. Plaintiff may have until December 2, 2002, in which to submit a certified copy of his trust fund account statement for the six-month period from approximately April 10, 2002, to approximately October 10, 2002. Once the initial partial payment has been calculated, plaintiff will have another three weeks in which to submit the payment. This should provide ample time for plaintiff and his counsel, if any, to decide who will be submitting the payment. If, by December 2, 2002, plaintiff fails to submit the required statement or show cause for his failure to do so, then I will advise the court of appeals of his non-compliance so that it may take whatever action is necessary with respect to his appeal.

Plaintiff raises two other issues. First, in an order dated August 28, 2002, I enjoined defendants from preventing plaintiff from possessing “a reasonable quantity” of prayer oil in his cell. As a result of difficulties he has experienced in obtaining prayer oil since the August 28 order, plaintiff submitted a document titled “Petitioner Showing Cause to Amend Order” in which he asks the court to specifically define the phrase “reasonable quantity.”

In an order entered on October 30, 2002, I gave defendants until November 20, 2002, in which to respond to plaintiff's motion. Now plaintiff asks that the due date of defendants' reply brief be delayed. Even assuming plaintiff has legal counsel, there is no reason to delay defendants' reply. Accordingly, this request will be denied.

Finally, plaintiff's submission includes an objection to the award of costs he received in this case. I construe the submission to include a motion to reconsider Magistrate Judge Skupniewitz's November 1, 2002 order taxing costs to the defendants in the amount of \$150. From the record, it appears that plaintiff asked for \$517.54 in costs, but was awarded \$150 (representing the filing fee in this case) because he failed to itemize any of his costs. Instead, he merely submitted a copy of his trust fund account statement on which he had highlighted various generic entries labeled "postage," "copies" and "legal loans." Given the fact that plaintiff was litigating three separate lawsuits in this court alone at the times of the entries on his statement and that he may have been litigating additional cases elsewhere, these general entries are wholly insufficient to show that the highlighted expenditures are connected to this case. Plaintiff suggests that his new counsel may be able to help him recover more of his costs. However, in response to defendants' opposition to his bill of costs, plaintiff noted that he has no records of the costs he accumulated in litigating this case and that "the only thing [he could] point too [sic] is the activities of" his account statement, which is plainly insufficient. Accordingly, plaintiff's motion for reconsideration of the cost

award in this case will be denied.

ORDER

IT IS ORDERED that

1. Plaintiff Jerry Charles may have an extension of time to December 2, 2002, in which to submit a certified copy of his trust fund account statement for the six-month period beginning approximately April 10, 2002, to approximately October 10, 2002;

2. Plaintiff's request to delay the due date for defendants' reply to his motion seeking a definition of "reasonable quantity" is DENIED; and

3. Plaintiff's motion for reconsideration of the cost award in this case is DENIED.

Entered this 18th day of November, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge