

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

CHRISTOPHER McSWAIN,

Petitioner,

v.

STATE OF WISCONSIN, JON E.
LITSCHER and GARY R. McCAUGHTRY,

Respondents.

ORDER

02-C-525-C

Petitioner Christopher McSwain, a prisoner at the Dodge Correctional Institution in Waupun, Wisconsin, has submitted a proposed complaint. He requests leave to proceed in forma pauperis. Because petitioner is a prisoner, he is subject to the 1996 Prisoner Litigation Reform Act. This means that before this court may determine whether he will be permitted to proceed with his complaint in forma pauperis, petitioner will have to pay an initial partial payment of the filing fee in the amount of \$17.60 and the remainder of the fee must be taken from his trust fund account in monthly installments thereafter even if petitioner's request for leave to proceed is denied. If petitioner cannot pay the initial partial payment from funds presently available to him in his regular account, he will have to make arrangements with prison authorities to pay some or all of the assessment from his release

account. This does not mean that petitioner is free to direct prison authorities to pay *all* of his filing fee from his release account. If he intends to continue with this lawsuit, the only amount petitioner must pay at this time is the \$17.60 initial partial payment. Before they are required to take any portion of that amount from petitioner's release account, prison officials may first take whatever amount up to the full amount petitioner owes from his regular account.

ORDER

IT IS ORDERED that petitioner is assessed \$17.60 as an initial partial payment of the \$150 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$17.60 on or before October 22, 2002. If, by October 22, 2002, petitioner fails to pay the initial partial payment or show cause for his failure to do so, I will assume that he wishes to withdraw this action voluntarily and the clerk of court is directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 2nd day of October, 2002.

BY THE COURT:

BARBARA B. CRABB
District Judge