

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

SCOTT A. HEIMERMAN,

Plaintiff,

v.

MINNCOR INDUSTRIES, PAUL ANDERSON,
DENNIS BENSON, DANIEL A. FERRISE,
FLOAT-RITE-PARK, JOHN GALZKI, LARRY
LINDSTROM, JOHN MONTPETIT, ERIK
SKON, JAMES SUTHERLAND and DOES 1-100,

Defendants.

MEMORANDUM

02-C-426-C

Plaintiff has filed a letter dated January 28, 2003, which I construe as a motion for an order requiring prison officials to pay the \$105 fee for filing his appeal in this case from his release account. The motion will be denied.

Wisconsin state law restricts use of an inmate's release account funds for any purpose prior to the inmate's release. Wis. Stat. § 814.29(1m)(d); Wis. Admin. Code § DOC 309.466(s). Nothing in the Prison Litigation Reform Act requires a warden to agree to give a prisoner release account funds to pay a filing fee simply because the prisoner wants the bill paid from his release account. The only money that the state need take from a state

prisoner's release account is money that fits within the formula specified in 28 U.S.C. § 1915. In this case, plaintiff has been found ineligible to use the partial payment provisions in § 1915 because he has struck out under § 1915(g). Therefore, there is no basis in the law for directing prison officials to take any money from plaintiff's release account to pay for his appeal.

IT IS ORDERED that plaintiff's motion for an order requiring prison officials to pay the \$105 fee for filing his appeal in this case from his release account is DENIED.

Entered this 30th day of January, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge