

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

GEORGE MERCIER,

Petitioner,

v.

SCOTT McCALLUM, GOVERNOR,
STATE OF WISCONSIN,

Respondent.

ORDER

02-C-709-C

This is a proposed civil action for injunctive relief in which petitioner George Mercier, a resident of the state of Nevada, alleges that the former governor of the state of Wisconsin should be held responsible for the failure of a librarian at the University of Wisconsin to send him a copy of an encyclopedia article on a Mexican plant. Petitioner asks for leave to proceed in forma pauperis.

According to petitioner's affidavit of indigency, it appears that he has a gross monthly income of approximately \$1,162.08. He has no dependents and no substantial assets or unusual debts.

The court's standard for determining indigency is as follows: from the petitioner's annual gross income, the court subtracts \$2,820 for each dependent. If the resulting balance

is less than \$11,500, the petitioner may proceed without prepaying any part of the fees and costs for filing her complaint. If the balance falls between \$11,500 and \$15,000, the petitioner must pay one-half the fee, or \$75. Otherwise, the petitioner must pay all of the \$150 filing fee. Because petitioner's gross income is over \$11,500, he does not qualify financially for pauper status.

Even if petitioner met the court's indigency standard, I would have to deny him leave to proceed and dismiss his case immediately for lack of subject matter jurisdiction. See Fed. R. Civ. P. 12(h)(3).

Generally, federal courts have the power to hear two types of cases: (1) cases in which a plaintiff alleges a cognizable violation of his or her constitutional rights or rights established under federal law and (2) cases in which a citizen of one state alleges a violation of his or her rights established under state law by a citizen of another state and the amount in controversy exceeds \$75,000. See 28 U.S.C. § 1331-32. Petitioner's claim does not fall into either category. He has no right under the United States Constitution or federal law to receive articles from librarians. If state law mandates librarians to send copies of articles to persons requesting them, a highly doubtful proposition, the amount in controversy falls thousands of dollars short of the required \$75,000 minimum.

ORDER

IT IS ORDERED that petitioner George Mercier's request for leave to proceed in forma

pauperis in this action is DENIED and this case is DISMISSED for lack of subject matter jurisdiction.

Entered this 30th day of January, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge