

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

ALGENONE KEONTA WILLIAMS,

Petitioner,

v.

JON LITSCHER,
JAN MINK and
CHRISTI DIETZ,

Respondents.

ORDER

00-C-451-C

On September 28, 2000, I denied petitioner Algenone Williams' request for leave to proceed in forma pauperis in this action after concluding that petitioner is not paying the debt he incurred under the 1995 Prison Litigation Reform Act in connection with other lawsuits he filed in this district. A copy of the order was sent to the warden of the Supermax Correctional Institution where petitioner is presently confined, and I requested that the warden notify this court when petitioner's debts in case nos. 98-C-823-C, 99-C-392-C and 99-C-806-C become current. The warden of the Supermax has not advised this court that petitioner has paid his past due amounts.

Now petitioner has filed a motion for reconsideration of the order of September 28. He notes correctly that case nos. 98-C-823, 99-C-392- and 99-C-806-C were transferred to the District Court for the Western District of Oklahoma. He contends that he is paying his filing fees for case nos. 98-C-823 and 99-C-392 to the Oklahoma court in cases now assigned nos. 99-CV-1634R and 99-CV-2118R. With respect to the third case, 99-C-806-C, petitioner notes that he has not paid the fee both because he was destitute at the time he filed the case and because a copy of the court's order requiring him to pay the debt was not forwarded to the warden of the Supermax prison at the time he was transferred there.

Petitioner's contention that he is paying his debts on case nos. 98-C-823 and 99-C-392 to the Oklahoma court is simply not true. Oklahoma case nos. 99-CV-6134R and 99-CV-2118R are cases petitioner filed directly with the District Court for the Western District of Oklahoma. This court's case no. 98-C-823 has been assigned case no. 99-CV-1771R in the Oklahoma court, and case no. 99-C-392 has been assigned case no. 00-CV-805. No payments have been made to the Oklahoma court on petitioner's debts in either of these cases. Nor should petitioner's filing fees in those cases be paid to that court.

The orders transferring petitioner's cases to the Western District of Oklahoma were entered after petitioner's cases had been filed in this court and after orders for payment of the filing fees had been made. This is the district that processed petitioner's cases and this is the

district in which the filing fees are owed. The orders allowing petitioner to proceed in each of the cases were sent to the wardens of the institutions in which petitioner was confined at the time the orders were entered. They included instruction to both petitioner and the warden to ensure that petitioner's installment payments were sent to this court in accordance with 28 U.S.C. § 1915(b)(2). In the absence of an order from this court, neither petitioner nor a warden would be authorized to direct that the payments be made elsewhere. In any event, it does not appear that any prison official is in contempt of this court's orders. The payments do not appear to have been misdirected; they are not being paid.

With respect to petitioner's contention that the order directing him to pay installment payments in case no. 99-C-806 was not sent to the warden at the Supermax, this is no excuse for petitioner's non-payment of the fees when he began receiving deposits to his account. The order allowing petitioner leave to proceed in forma pauperis advised both petitioner and the warden of the institution at which petitioner was then confined that although petitioner was currently destitute, he would have to pay the \$150 fee for filing case no. 99-C-806 in installment payments at such time as funds existed in his prison account. At the time petitioner was transferred to the Supermax, it was as much petitioner's obligation as it was the obligation of the warden of petitioner's prior institution to insure that the Supermax financial office was made aware of petitioner's payment obligations under the Prison Litigation Reform Act.

ORDER

IT IS ORDERED that petitioner's motion for reconsideration of the order denying him leave to proceed in forma pauperis in this case is DENIED.

Entered this 14th day of November, 2000.

BY THE COURT:

BARBARA B. CRABB
District Judge