

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

EUGENE JENSEN,

Petitioner,

ORDER

v.

03-C-0079-C

PHIL KINGSTON, Warden, Columbia
Correctional Institution,

Respondent.

On February 26, 2003, I denied petitioner Eugene Jensen's application for leave to proceed in forma pauperis on his petition for a writ of habeas corpus under 28 U.S.C. § 2254 because his trust fund account statement showed that he did not qualify for pauper status. I also found that even if petitioner did qualify for indigent status, his petition would have to be dismissed for his failure to file it within the one-year statute of limitations prescribed by 28 U.S.C. § 2244(d). At the time, I was not aware that petitioner had paid the \$5 filing fee for a habeas petition even though he had filed an application for leave to proceed in forma pauperis. Accordingly, the order of February 26, 2003 denying petitioner's application for leave to proceed in forma pauperis is VACATED as unnecessary. However,

for the reasons stated in that order, the petition must be DISMISSED WITH PREJUDICE for petitioner's failure to file it within the one-year statute of limitations.

Dated this 27th day of February, 2003.

BY THE COURT:

BARBARA B. CRABB
District Judge