

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

STEVEN JAMES RANTA,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.

ORDER

04-C-601-C

Petitioner Steven James Ranta, a prisoner at the Federal Correctional Institution in Oxford, Wisconsin, has filed a pleading on forms intended for persons seeking modification of their sentences under 28 U.S.C. § 2255. Although the “motion” was initially filed in petitioner’s criminal case, 00-CR-33-C-01, petitioner does not contend in his pleading that his sentence was imposed in violation of the Constitution or laws of the United States, that this court was without jurisdiction to impose his sentence or that the sentence was in excess of the maximum authorized by law or is otherwise subject to collateral attack. Instead, petitioner is contending that the Bureau of Prisons Bureau of Prisons is acting contrary to 18 U.S.C. § 3624(b) by calculating his good conduct time on the basis of the actual time served rather than his imposed sentence. Such a challenge to the Bureau of Prisons’

computation of good conduct time is appropriately raised in a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Therefore, I construe petitioner's pleading as a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and will direct the clerk of court to file the petition in case no. 04-C-601-C, the civil case number assigned the pleading at the time it was filed.

Petitioner has not paid the \$5 fee for filing his habeas corpus petition and he has not requested leave to proceed in forma pauperis. Until he pays the fee or obtains leave to proceed as a pauper, I cannot consider the merits of his petition.

In determining whether petitioner is indigent for the purpose of filing a § 2241 petition, this court requires that he submit a trust fund account statement for the six-month period immediately preceding the filing of his habeas corpus petition. See Longbehn v. U.S., 169 F.3d 1082 (7th Cir. 1999). Once the statement is received, this court will calculate petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, he will not be eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Now that petitioner is aware of the formula this court uses in determining whether a prisoner is indigent for the purpose of paying a \$5 filing fee, he may be able to figure easily

whether he qualifies. If he knows that he will not qualify for indigent status, he may elect to submit a check or money order made payable to the clerk of court in the amount of \$5 in lieu of the six-month statement requested above. In any event, petitioner should act quickly. If, by September 28, 2004, petitioner does not submit either the \$5 payment or a trust fund account statement for the period beginning approximately March 7, 2004 and ending approximately September 7, 2004, his request for leave to proceed in forma pauperis will be denied and this action will be closed.

ORDER

IT IS ORDERED that the clerk of court remove petitioner's pleading from the docket in his criminal case and file the pleading as a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 in case no. 04-C-601-C.

Further, IT IS ORDERED that petitioner may have until September 28, 2004, in which to submit either the \$5 fee for filing his petition or a trust fund account statement for the period beginning approximately March 7, 2004 and ending approximately September 7, 2004. If, by September 28, 2004, petitioner does not submit either the \$5 payment or the

necessary trust fund account statement, his request for leave to proceed in forma pauperis will be denied and this action will be closed.

Entered this 7th day of September, 2004.

BY THE COURT:

BARBARA B. CRABB
District Judge