

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

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MARK A. PERKINS,

Petitioner,

v.

JOSEPH SCIBANA, Warden,

Respondent.  
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ORDER

04-C-646-C

In an order entered on October 13, 2004, in this habeas corpus proceeding, I gave respondent until October 25, 2004, in which to show cause why petitioner's petition should not be granted. In addition, I directed petitioner to submit a copy of his habeas corpus petition on which he had sworn or verified under penalty of perjury that his assertions are true, and to submit proof of service of the verified petition upon the respondents by certified mail as soon as he has it. I told petitioner that a copy of the postmarked certified mail receipt for each of the individuals to whom the petition was sent would constitute proof of service.

Now petitioner has filed a verified petition. However, he states that he is presently in a special housing unit and as a result does not have "the means" to pay postage for

certified mail. Therefore, he requests permission to serve his petition by regular mail. That request will be denied.

As I told petitioner in the October 13 order, the rule governing service of process in his case is Fed. R. Civ. P. 4(i). According to this rule, petitioner's petition must be sent with a copy of this court's order *by certified mail* to: 1) the respondent; 2) the United States Attorney for the Western District of Wisconsin; and 3) the Attorney General in Washington, D.C. I have no legal authority to waive this requirement.

When he filed his petition, petitioner submitted a trust fund account statement that showed he was earning over \$200 every month at his UNICOR job and that he had a balance in his prison account of \$240.96. If petitioner is now destitute and has lost the opportunity to earn additional funds, he will have to move this court for leave to proceed in forma pauperis in this action for the sole purpose of obtaining service of his petition on the respondent at government expense. If petitioner chooses this route, he will have to support his motion with a recent trust fund account statement that will verify his lack of means.

#### ORDER

IT IS ORDERED that petitioner's request that the court allow him to serve his

petition on the respondent by regular mail is DENIED.

Entered this 25th day of October, 2004.

BY THE COURT:

BARBARA B. CRABB  
District Judge