

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

LARRY STOCKS,

Petitioner,

v.

JOSEPH SCIBANA,

Respondent.

MEMORANDUM

05-C-136-C

On May 4, 2005, petitioner filed a notice of appeal from the dismissal of this § 2241 habeas corpus action. However, although he had paid the \$5 fee for filing his petition, petitioner did not pay the \$255 fee for filing his appeal. Therefore, in an order dated May 5, 2005, I construed petitioner's notice of appeal to include a request for leave to proceed in forma pauperis on appeal. I told petitioner that although he is not subject to the 1996 Prison Litigation Reform Act, Walker v. O'Brien, 216 F.3d 626, 628-629 (7th Cir. 2000), it is this court's practice to calculate how much of the fee he could afford to pay by using the method for determining indigency set out in 28 U.S.C. § 1915(b)(1). Longbehn v. U.S., 169 F.3d 1082 (7th Cir. 1999). From the trust fund account statement petitioner submitted in this case, I found that he had the means to prepay \$15.52. I told petitioner that if, by

May 26, 2005, he failed to submit a check or money order made payable to the clerk of court in the amount of \$15.52, I would notify the court of appeals of his failure to pay so that it could take whatever action is appropriate with respect to petitioner's appeal. By this memorandum, I am notifying the court of appeals that petitioner has not paid the portion of the fee for filing his appeal that I determined he could afford to pay.

Entered this 1st day of June, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge