

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

NATHANIEL SMITH,

Petitioner,

v.

STEPHEN HOBART, Warden,
FCI-Oxford, WI.,¹

Respondent.

ORDER

05-C-371-C

Petitioner Nathaniel Smith has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, alleging that he was deprived of good time without procedural due process in violation of the Fifth Amendment. Petitioner has not asked for leave to proceed in forma pauperis and submitted a trust fund account statement for the last six months showing he cannot afford to pay the \$5 fee for filing his petition, nor has he paid the \$5 fee. In a cover letter addressed to the clerk of court accompanying his petition, petitioner states,

¹Petitioner also lists as respondents Harley Lappin, Director of the United States Bureau of Prisons, United States Attorney General Alberto Gonzalez and John Doe and Jane Roe, employees of the United States under the direction of respondents. However, the proper respondent in a petition for a writ of habeas corpus is the petitioner's custodian. 28 U.S.C. § 2242. Therefore, petitioner's custodian, warden Stephen Hobart, will be considered the only respondent in this case.

“per my phone conversation with your office, please apply the \$5.00 filing fee I had previously sent to your office to this filing.” However, this court has no record of ever having received \$5 from petitioner or from anyone else to be applied to this case.

Accordingly, IT IS ORDERED that petitioner may have until July 15, 2005, in which to submit a check or money order made payable to the Clerk of Court in the amount of \$5 to cover the fee for filing this petition. Alternatively, petitioner may have until July 15, 2005, in which to move for leave to proceed in forma pauperis and support the request with a copy of his trust fund account statement for the period beginning approximately January 1, 2005 and ending approximately July 1, 2005. If, by July 15, 2005, petitioner does neither of these things, the clerk of court is directed to close this file.

Entered this 24th day of June, 2005.

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