

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

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EUGENE L. CHERRY,

Petitioner,

v.

GERALD BERGE, PETER HUIBREGTSE,  
JOHN SHARPE and BRIAN KOOL,

Respondents.  
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ORDER

05-C-38-C

Petitioner Eugene L. Cherry, a prisoner at the Wisconsin Secure Program Facility in Boscobel, Wisconsin, has submitted a proposed complaint. He requests leave to proceed in forma pauperis. A decision on the request will be delayed until petitioner pays an initial partial payment of the filing fee as required by 28 U.S.C. § 1915(b) and the 1996 Prison Litigation Reform Act. Petitioner's initial partial payment cannot be calculated at this time because the trust fund account statement he submitted with his complaint does not cover the full six-month period immediately preceding the filing of his complaint. Indeed, the statements petitioner has submitted are canteen statements for less than a one week period in each of the months of August, September, October, December and January.

Petitioner's complaint was submitted on January 19, 2005. His trust fund account statement should cover the period beginning approximately July 19, 2004 and ending approximately January 19, 2005. Instead, it covers a one-month period beginning February 6, 2001 and ending March 6, 2001. Therefore, if petitioner wishes to continue with this lawsuit, he will have to obtain a certified copy of his trust fund account statement for the required six-month period.

#### ORDER

IT IS ORDERED that petitioner may have until February 7, 2005, in which to submit a trust fund account statement for the period beginning approximately July 19, 2004 and ending approximately January 19, 2005. If, by February 7, 2005, petitioner fails to respond to this order, the court will view his silence as an indication that he wishes to withdraw this action voluntarily. In that event, Judge Crabb will direct the clerk of court to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 24th day of January, 2005.

BY THE COURT:

STEPHEN L. CROCKER  
Magistrate Judge