

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

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JAMES JENKINS,

Plaintiff,

v.

FREDDRICK WILSON and  
MR. BANKSON, Dane County Deputy Sheriffs,

Defendants.  
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MEMORANDUM

05-C-609-C

Plaintiff James Jenkins is proceeding in this civil action on his claim that defendants Freddrick Wilson and Mr. Bankson used excessive force against him on August 22, 2005. He has been allowed to proceed without prepaying any portion of the \$250 fee for filing his case, because his trust fund account statement showed that he did not have the means to pay an initial partial payment. However, plaintiff was advised that he is obligated to pay the \$250 fee in monthly payments as described in 28 U.S.C. § 1915(b)(2) when he has the means to do so.

Now plaintiff has written a letter dated February 20, 2006, in which he states that on February 2, 2006, he received a \$20 money order into his jail account and that jail

officials have taken the entire amount to pay toward the balance of his filing fee. He states his belief that prison officials may take 10% of the deposits made to his account and asks that this court explain why 100% of the deposit has been taken. Attached to plaintiff's letter is a "Cash Drawer" receipt that plaintiff suggests shows that funds have been removed wrongfully from his account.

As an initial matter, this court has no ability to explain what jail officials have or have not done with plaintiff's deposit. The receipt plaintiff submitted shows only that a deposit was made. It does not reflect what happened to the deposit subsequent to its receipt. Moreover, this court's records do not show that a \$20 payment was remitted to this court to be applied to the balance plaintiff owes on his filing fee. Thus, it is possible that plaintiff is mistaken in his assumption that 100% of his \$20 deposit has been taken from his account to pay a portion of his filing fee in this case. In any event, plaintiff will have to work directly with jail officials to insure that the filing fee in this case is properly paid. In this regard, I note that plaintiff himself misunderstands how much money jail officials are authorized by statute to take from his account and apply to his debt in this court. 28 U.S.C. § 1915(b)(2) provides

After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month's income credited to the prisoner's account. The agency having custody of the prisoner shall forward payments from the prisoner's account to the clerk of court each time the amount in the account exceeds \$10 until the filing fees are paid.

Thus, jail officials are entitled under the statute to take \$4 of the \$20 deposit and either remit that sum to this court promptly or delay the remittance as the statute allows until the total amount taken from deposits made to plaintiff's account exceeds \$10.

Entered this 28th day of February, 2006.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge