

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

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JAMES R. SCHULTZ,

Petitioner,

v.

PAM WALLACE, Warden,  
Stanley Correctional Institution; and  
P. NICHOLS, Chippewa Valley  
Treatment Facility,

Respondents.

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ORDER

05-C-751-C

On January 6, 2006, I denied petitioner James R. Schultz leave to proceed in forma pauperis in this civil action because he has struck out under the three strikes provision of the 1996 Prison Litigation Reform Act, 28 U.S.C. § 1915(g). Subsequently, petitioner filed a notice of appeal, and his request for leave to proceed on appeal in forma pauperis was denied for the same reason. In each instance, I noted that even though petitioner did not qualify for pauper status, the Prison Litigation Reform Act required him to pay the filing fees for his complaint and his appeal either immediately if he had money in his prison account or in monthly installments pursuant to 28 U.S.C. § 1915(b)(2) if he did not.

Now petitioner has filed a letter dated May 1, 2006, in which he asks for an order advising prison officials that “gift monies are exempt from said garnishment.” Unfortunately, no part of 28 U.S.C. § 1915 permits me to order any part of petitioner’s income exempt from garnishment. The relevant portion of the statute reads, “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.” 28 U.S.C. § 1915(b)(2). Nothing in the statute or in case law developed in the Seventh Circuit after the Prison Litigation Reform Act was enacted suggests that gift money is not to be considered “income” for the purpose of § 1915(b)(2).

ORDER

IT IS ORDERED that petitioner’s request that this court order prison authorities to exempt gift money he received to his inmate account from garnishment under 28 U.S.C. § 1915(b)(2) is DENIED.

Entered this 18th day of May, 2006.

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