

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

ANDREW JOSEPH SCHNEIDER,

Petitioner,

v.

ORDER

06-C-380-C

CITY OF WEST BEND, a municipal corporation;
CITY OF WEST BEND POLICE DEPT., a municipal corporation;
WASHINGTON COUNTY, a municipal corporation;
DAVID N. RETTLER and spouse, in their individual capacities;
DAVID RESHESKE and spouse, in their individual capacities;
ERIC J. SZATKOWSKI and spouse, in their individual capacities;
ROY R. KORTE and spouse, in their individual capacities;
KENNETH J. MUELER and spouse, in their individual capacities;
STEEVE HOOGESTER and spouse, in their individual capacities;
DARYL W. LAATSCH and spouse, in their individual capacities;
KATHRYN W. FOSTER and spouse, in their individual capacities;
MATTHEW J. FRANK and spouse, in their individual capacities;
WISCONSIN DEPARTMENT OF CORRECTIONS;
THIRTY (30) DOES (JOHN DOES OR JANE DOES),

Respondents.

Petitioner Andrew Joseph Schneider, a prisoner at the Oakhill Correctional Institution in Oregon, Wisconsin, has submitted a proposed complaint. He requests leave to proceed in forma pauperis. A decision on the request will be delayed until petitioner

makes 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 petitioner has not submitted a trust fund account statement that covers the six-month period immediately preceding the filing of his complaint, as he was requested to do in a communication from the office of the clerk of court dated June 30, 2006. Instead, in an affidavit dated July 4, 2006, petitioner suggests that the clerk's request is an "unsupported demand." He avers that he is a "poor person, with no money, no debt instruments, and no assets," and that he is unable to pay a filing fee. That might turn out to be the case, but this court is not free to disregard the statutory requirement that petitioner submit a trust fund account statement in accordance with 28 U.S.C. § 1915(a)(2), that he pay an initial partial payment of the \$350 fee for filing his complaint if this court finds that he has the means to do, § 1915(b)(1), and that he pay the remainder of the fee in monthly installments until the full amount of the filing fee has been paid, § 1915(b)(2).

Petitioner's complaint was submitted on June 5, 2006. His trust fund account statement should cover the period beginning approximately December 5, 2005 and ending approximately June 5, 2006. If petitioner was not incarcerated for the full six-month period, he should advise the court of that fact in an affidavit and provide a trust fund account statement for the period within which he was incarcerated. Petitioner should be aware that when a prisoner is incarcerated at one or more institutions during the six-month period

immediately preceding the filing of his lawsuit, he is required under 28 U.S.C. § 1915(a)(2) to obtain a trust fund account statement “from the appropriate official of each prison at which [he] is or was confined” during the relevant period. Therefore, if petitioner wants to continue with this lawsuit, he will have to submit the required statement no later than August 8, 2006. If he fails to do so, this case will be closed.

ORDER

IT IS ORDERED that petitioner may have until August 8, 2006, in which to submit a trust fund account statement for the period beginning approximately December 5, 2006 and ending approximately June 5, 2006. If, by August 8, 2006, petitioner fails to respond to this order, I will assume that he wishes to withdraw this action voluntarily and the clerk of court is directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 18th day of July, 2006.

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