

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

DARNELL ROBERT BONNER,

Petitioner,

v.

ORDER

SARA COOPER. LT. SWIEKATOWSKI and
MARTHA BREEN,

06-C-721-S

Respondents.

Petitioner requests leave to proceed in forma pauperis.
Attached to his affidavit of indigency is a proposed complaint.

Pursuant to 28 U.S.C. § 1915(b)(1), as amended by the Prison Litigation Reform Act, effective April 26, 1996, a prisoner bringing a civil action shall be required to pay the full amount of the \$350.00. The Court shall collect an initial partial filing fee of 20% of the greater of the average monthly deposits in the prisoner's account or the average monthly balance in the prisoner's account for the six month period immediately preceding the filing of the complaint.

According to the information that petitioner submitted, he had no income in the six month time period immediately preceding the filing of the complaint. Petitioner has no means to pay an initial partial filing fee. The Court will grant petitioner's request to proceed in forma pauperis and address the merits of his complaint.

Petitioner alleges that on September 18, 2006 he was placed on a behavior modification program at the Green Bay Correctional Institution, Green Bay, Wisconsin by respondents Sara Cooper, Lt. Swiekatowski and Martha Breen. He alleges that they deprived him of his property without due process.

In Zinermon v. Burch, 439 U.S. 113 (1990), the United States Supreme Court held that a deprivation of an individual's liberty or property interest does not state a claim under the Fourteenth Amendment due process clause if adequate state post deprivation remedies exist. Petitioner has adequate state post deprivation remedies including administrative remedies, a state petition for a writ of habeas corpus and a state court action for damages. Accordingly, he has not stated a claim for relief under federal law.

ORDER

IT IS ORDERED that petitioner's request to proceed in forma pauperis is GRANTED.

IT IS FURTHER ORDERED that petitioner's complaint and all claims contained therein is DISMISSED without prejudice for failure to state a claim under federal law.

IT IS FURTHER ORDERED that judgment be entered DISMISSING plaintiff's complaint and all claims contained therein without prejudice.

Entered this 22nd day of December, 2006.

BY THE COURT:

s/
JOHN C. SHABAZ
District Judge