

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

EDWIN GONZALES,

Petitioner,

v.

DR. BOB BREVARD,
NURSE SUE WARD and
NURSE STEVE HELGERSON,,

Respondents.

ORDER

07-C-144-C

Petitioner Edwin Gonzales, a prisoner at Columbia Correctional Institution in Portage, Wisconsin, has submitted a proposed complaint. Petitioner seeks leave to proceed without prepayment of fees and costs. Because petitioner is a prisoner, he must pay an initial payment of 20 percent of the greater of (a) his average monthly deposits to his trust account or (b) his average monthly balance of his trust account for the past six months. 28 U.S.C. § 1915(b)(1).

In this case, petitioner's average monthly balance is \$2652. Even if I deducted the amount in petitioner's release account (\$566), 20 percent of the total would still be larger than \$350, which is the full filing fee. Therefore, petitioner does not qualify to pay the filing

fee in installments. Under the 1996 Prison Litigation Reform Act, he is required to pay the fee in full.

Petitioner should be aware that once he pays the filing fee, the court is required to screen the merits of his complaint pursuant to 28 U.S.C. § 1915A as soon as the court's calendar permits. At the time, the court will identify any claims on which petitioner will be allowed to proceed and dismiss the complaint or any portion of it that is legally frivolous, malicious, fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b). Therefore, petitioner should refrain from serving his complaint on the respondents until after the court has screened his complaint. As soon as the screening process is complete, petitioner will be advised promptly of the court's decision.

ORDER

IT IS ORDERED that petitioner Edwin Gonzales's petition for leave to proceed in forma pauperis is DENIED. Petitioner may have until April 9, 2007, in which to submit the \$350 fee for filing his complaint. If, by April 9, 2007, petitioner fails to pay the fee, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is

directed to close this file without prejudice to petitioner's filing his case at a later date.

Entered this 20th day of March, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge