

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

JAMES M. UPTHEGROVE,

Petitioner,

v.

WISCONSIN DOC and
JANE DOE, Records Custodian,

Respondents.

ORDER

07-C-217-C

Petitioner James M. Upthegrove, a prisoner at the Eau Claire county jail in Eau Claire, Wisconsin, has submitted a proposed complaint. He requests leave to proceed in forma pauperis. A decision on the request will be delayed until petitioner pays an initial partial payment of the \$350 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 he has not submitted a trust fund account statement with his complaint.

Petitioner's complaint was submitted on April 13, 2007. His trust fund account statement should cover the six-month period beginning approximately October 10, 2006 and ending approximately April 10, 2007. I am aware from petitioner's complaint that he was

released from prison on January 2, 2007, and that he was later reincarcerated at the Eau Claire county jail. Pursuant to 28 U.S.C. § 1915(a)(2), when a prisoner is incarcerated at one or more institutions during the six-month period immediately preceding the filing of his lawsuit, he must 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 write to the correctional institution in which he was confined between October 10, 2006 and January 2, 2007, to request a certified copy of his trust fund account statement for that period. In addition, he will have to submit a statement for the period beginning at the time of his incarceration at the Eau Claire county jail up to approximately April 10, 2006. Once petitioner has submitted the necessary statements, I will calculate his initial partial payment and advise him of the amount he will have to pay before the court can screen the merits of his complaint under § 1915(e)(2).

ORDER

IT IS ORDERED that petitioner may have until May 14, 2007, in which to submit a trust fund account statement for the period beginning October 10, 2006 and ending January 2, 2007, and for the period of his incarceration at the Eau Claire county jail up to approximately April 10, 2007. If, by May 14, 2007, 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 16th day of April, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge