

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

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JAMES M. UPTHEGROVE,

Petitioner,

v.

WISCONSIN DOC and  
JANE DOE, Records Custodian,

Respondents.  
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ORDER

07-C-217-C

On April 16, 2007, I directed petitioner James M. Upthegrove, a prisoner at the Eau Claire county jail in Eau Claire, Wisconsin, to submit two trust fund account statements that would cover the six-month period immediately preceding the filing of his complaint on April 13, 2007. In particular, I told petitioner that I could not assess him an initial partial payment of the \$350 filing fee until he obtained from the institution in which he was confined between October 10, 2006 and January 2, 2007, a copy of his trust fund account statement for that period and until he submitted a statement from the Eau Claire county jail showing his financial transactions during the period beginning whenever he was first re-incarcerated there after January 2, 2007 and ending approximately April 10, 2007.

Now plaintiff has written to say that between October 10, 2006 and January 2, 2007, he was incarcerated at the Prairie du Chien Correctional Institution and that, when he wrote officials at that institution to ask for a copy of the required statement, officials told petitioner that they could not comply with the request unless he first provides them with a stamped envelope addressed to this court. Petitioner states that he is indigent and cannot purchase a stamped envelope from the canteen to send to Prairie du Chien because he is over \$450 in debt for medications and hospital visits. I construe petitioner's letter to be a motion for an enlargement of time within which to submit his trust fund account statement, and I will grant the motion.

Petitioner does not say that he told anyone at the Prairie du Chien facility that he could not afford to send a stamped envelope for their use and that they nevertheless refused to send the statement. It seems unlikely that the facility would take such a stance in light of the statutory nature of the statement requirement. Nevertheless, time is running short. Rather than require plaintiff to try again to obtain the statement and explain his indigence, it may be possible to take a shortcut. Through a copy of this order to the warden of the Prairie du Chien Correctional Institution, I am asking whether, no later than May 23, 2007, he would arrange to have sent to this court petitioner's trust fund account statement for the period beginning approximately October 10, 2006 and ending approximately January 2, 2007.

With respect to the portion of the statement petitioner is to be sending from the Eau Claire county jail, petitioner does not suggest that he is unable to obtain it. Because he has not yet submitted it, however, I will extend to May 23, 2007, the date by which he is to file it with the court.

#### ORDER

IT IS ORDERED that petitioner may have an enlargement of time to May 23, 2007, in which to submit a trust fund account statement from the Eau Claire county jail beginning sometime after January 2, 2007 when he was re-incarcerated there, up to approximately April 10, 2007.

Further, it is requested that the warden of the Prairie du Chien Correctional Institution arrange promptly to have sent to this court petitioner's trust fund account statement for the period beginning October 10, 2006 and ending January 2, 2007. If this arrangement is not feasible, I will calculate petitioner's assessment without it.

If, by May 23, 2007, petitioner fails to submit the statement I have asked him to obtain from the Eau Claire county jail, 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 9th day of May, 2007.

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