

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

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WAR N. MARION,

Petitioner,

ORDER

v.

07-C-243-C

COLUMBIA CORRECTIONAL INSTITUTION,  
WARDEN GREGORY GRAMS,  
DEPUTY WARDEN MARC CLEMENTS,  
CAPTAIN LESLY WINSLOW-STANLEY,  
C.O. GREGORY GARRISON,  
CAPTAIN DYLAN RADTKE,  
SUPERVISOR JANEL NICHOLS,  
ADVOCATE MARY PEISER,  
PSYCHOLOGIST ANDREA NELSON, and  
LT. KELLER,

Respondents.  
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In an order dated July 11, 2007, I granted petitioner's request to proceed in forma pauperis on appeal and assessed an initial partial payment of \$2.85. Now, petitioner says he is unable to make this payment because prison staff have refused to authorize the necessary withdrawal.

Petitioner has submitted the two written denials he received for his disbursement

request. Both of them indicate that petitioner's request was denied because officials believed that his initial partial payment had already been paid. It is true that petitioner's initial partial payment for *filing* the case has been paid; the court received that payment on May 24, 2007. But no payment has yet been received for petitioner's appeal. It appears that prison staff may be confused as a result of the relatively short time between the assessment of an initial partial payment for filing the case (May 13, 2007) and then for appealing the case (July 11, 2007).

As I have explained in previous cases, 28 U.S.C. § 1915(b) requires prison officials to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. Carter v. Bennett, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Accordingly, I will give petitioner additional time in which to make an initial partial payment. Petitioner may show this order to the appropriate prison authorities to insure they understand the nature of his disbursement request and the scope of their obligation.

#### ORDER

IT IS ORDERED that petitioner may have until August 15, 2007, in which to submit a check or money order made payable to the clerk of court in the amount of \$2.85. If, by August 15, 2007, petitioner fails to pay the initial partial payment or explain his failure to do so, then I will advise the court of appeals of his noncompliance in paying the assessment

so that it may take whatever steps it deems appropriate with respect to this appeal.

Entered this 25th day of July, 2007.

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