

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

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JEFFREY HOLZEMER,

Petitioner,

v.

MATTHEW FRANK and JOHN BETT,

Respondents.

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ORDER  
07-C-353-S

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 income of \$484.64 in the six month time period immediately preceding the filing of the complaint, an average of \$80.77 a month. Petitioner has the means to pay an initial partial filing fee of \$16.15, 20% of this amount.

Failure to pay this partial filing fee by July 19, 2007 may result in dismissal of this action for failure to prosecute. According to 28 U.S.C. § 1915(b)(2), after payment of the initial partial filing fee the institution's financial officer is authorized to deduct monthly payment from the petitioner's account until the \$350.00 filing fee is paid in full.

Petitioner moves for an order directing the institution to allow him to use his release account funds to pay the \$350.00 filing fee. This motion will be denied because the funds in an inmate's release account are for his use upon his release.

ORDER

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

IT IS FURTHER ORDERED that he shall pay an initial partial filing fee of \$16.15 by July 19, 2007 or this action may be dismissed for his failure to prosecute.

IT IS FURTHER ORDERED that petitioner's motion for an order directing the institution to allow him to use his release account funds to pay his initial partial filing fee is DENIED.

Entered this 28<sup>th</sup> day of June, 2007.

BY THE COURT:

/s/

JOHN C. SHABAZ  
District Judge