

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

ANDREW MATTHEW OBRIECHT,

Petitioner,

v.

ORDER

07-cv-409-bbc

MICHAEL THURMER, Warden,
Waupun Correctional Institution,

Respondent.

On January 30, 2008, this court granted petitioner Andrew Matthew Obrieht's petition for leave to proceed *in forma pauperis* on appeal on the condition that he pay a partial filing fee in the amount of \$39.66. Before the court is petitioner's second motion for an extension of time within which to pay the filing fee. (Petitioner filed a similar motion on February 19, 2008.) Petitioner asserts that he presently lacks the assets or means to pay the partial filing fee. He requests an extension of time to pay the fee until April 17, 2008.

28 U.S.C. § 1915(b)(4) provides that "[i]n no event shall a prisoner be prohibited from bringing a civil action or appealing a civil or criminal judgment for the reason that the prisoner has no assets and no means by which to pay the initial filing fee." Although petitioner indicates that he thinks he will have the means to pay the fee by April 17, 2008,

his history thus far suggests that another month will not make any difference. Accordingly, I accept petitioner's averment that he is presently unable to pay the partial filing fee. The condition that petitioner be required to pay \$39.66 before proceeding on appeal is hereby VACATED. Petitioner's motion for an extension of time to pay the fee is DENIED as unnecessary.

Entered this 13th day of March, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge