

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

JAMES G. FREER,

Petitioner,

v.

MICHAEL THURMER, Warden,
Waupun Correctional Institution,

Respondent.

ORDER

08-cv-0135-bbc

Petitioner James Thurmer, an inmate at the Waupun Correctional Institution, has filed a petition for a writ of habeas corpus pursuant to Rule 4 of the Rules Governing Section 2254 Cases. Petitioner requests leave to proceed *in forma pauperis* and has supported his request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed *in forma pauperis*, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balances for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to prepay the filing fee. According to the trust account statement, in the past six months petitioner's monthly balance has averaged \$114.41 and his deposits have averaged \$.01. Twenty percent of the

average monthly balance (the greater of the two figures) is \$22.88. Because this amount is more than \$5, petitioner must prepay the filing fee before this court will review his petition.

ORDER

IT IS ORDERED that the application of James Freer for leave to proceed *in forma pauperis* is DENIED. Petitioner must prepay the \$5 filing fee. Petitioner has until April 14, 2008 to pay this amount. If he fails to submit the filing fee by that date, his habeas petition may be dismissed for failure to prosecute it.

Entered this 13th day of March, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge