

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

DARRIN A. GRUENBERG,

Petitioner,

ORDER

v.

08-cv-524-slc

WILLIAM POLLARD, Warden,
Green Bay Correctional Institution,

Respondent.

Petitioner Darrin A. Gruenberg, a prisoner at the Green Bay Correctional Institution, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He requests leave to proceed in forma pauperis. Petitioner 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 pay the filing fee. According to the trust account statement, in the past six months petitioner's monthly

deposits have averaged \$43.80. Twenty percent of this figure is \$8.76. Accordingly, I will deny petitioner's application for leave to proceed in forma pauperis. To proceed further on his habeas petition, petitioner must pay the \$5 filing fee. If he fails to pay the fee by October 8, 2008, his petition will be dismissed for his failure to prosecute it.

ORDER

IT IS ORDERED that the petition of Darrin Gruenberg for leave to proceed in forma pauperis on appeal is DENIED. Petitioner has until October 8, 2008 in which to pay the \$5 filing fee. If he fails to submit the fee by October 8, 2008, his petition will be dismissed for failure to prosecute it.

Entered this 23rd day of September, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge