

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

KEVIN BERNARD DURHAM,

Petitioner,

v.

LINDUS CONSTRUCTION/MIDWEST
LEAFGUARD, INC.,

Respondent.

ORDER

09-cv-4-slc

This is a civil action in which petitioner, a resident of Baldwin, Wisconsin, alleges that respondent discriminated against him because of his race by overlooking him for installation and sales jobs, and by terminating his employment for actions that resulted in a promotion for another employee. On January 7, 2009, I found that petitioner did not qualify for indigent status because he had a substantial asset in the amount of \$19,000. Now petitioner moves reconsideration because his financial situation has changed. Petitioner is no longer employed and has spent the \$19,000 for taxes and past due bills. I will grant petitioner's motion for reconsideration and find that he qualifies for indigent status.

As soon as the court's calendar permits, petitioner's complaint will be screened pursuant to 28 U.S.C. § 1915(e)(2). At that time, the court will identify any claims on which petitioner will be allowed to proceed and dismiss the complaint or any portion of it that is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief. Petitioner will be notified promptly when a decision is entered in this case.

ORDER

IT IS ORDERED that petitioner's motion for reconsideration, dkt. # 4, is GRANTED.

Further, IT IS ORDERED that petitioner qualifies financially to proceed without prepayment of costs and fees in this action and that petitioner's complaint is taken under advisement for screening pursuant to 28 U.S.C. § 1915(e)(2) to determine whether the action is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief.

Entered this 27th day of January, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge