

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

RODNEY C. MOORE,

Petitioner,

v.

ORDER

09-cv-147-bbc

GREG GRAMS, Warden,
Columbia Correctional Institution,

Respondent.

Petitioner Rodney C. Moore, a prisoner at the Columbia 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.

As an initial matter, I note that petitioner generally named the warden of the Columbia Correctional Institution as respondent to the petition. That person's name is Greg Grams. I have revised the caption to show as the name of the warden and direct the clerk of court to do the same.

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 \$5 filing fee. According to the trust account statement, in the past six months petitioner's monthly balance has averaged \$81.36. Twenty percent of this figure is \$16.27. 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 April 7, 2009, his petition will be dismissed for his failure to prosecute it.

ORDER

IT IS ORDERED that the petition of Rodney Moore for leave to proceed *in forma pauperis* is DENIED. Petitioner has until April 7, 2009 in which to pay the \$5 filing fee. If he fails to submit the fee by that date, his petition will be dismissed for failure to prosecute it. The clerk of court is directed to revise the caption to reflect that respondent's name is Greg Grams.

Entered this 17th day of March, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge