

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

FRANCISCO JAVIER ESTRADA,

Petitioner,

v.

WARDEN HOLINKA,

Respondent.

ORDER

10-cv-465-bbc

On December 27, 2010, I ordered petitioner to pay \$10.18 as a partial payment of the \$455 fee for filing his appeal. Instead of submitting his initial partial fee, petitioner has submitted a motion for reconsideration of the December 27, 2010 order. He contends that he should be allowed to proceed in forma pauperis without paying an initial partial filing fee under to Fed. R. App. P. Rule 24 (a)(2).

Unfortunately, petitioner is mistaken. Although, petitioner's appeal is not subject to the 1996 Prison Litigation Reform Act, because it is an appeal from a request for collateral relief under 28 U.S.C. § 2241, Walker v. O'Brien, 216 F.3d 626, 628-629 (7th Cir. 2000) ("the PLRA does not apply to any requests for collateral relief under 28 U.S.C. §§ 2241, 2254, or 2255"), in determining whether a habeas corpus petitioner is eligible for pauper status, the

court applies the formula set out in 28 U.S.C. § 1915(b)(1). Using that formula, I determined that petitioner owed a partial payment of the fee for filing his appeal of \$10.18.

Petitioner's motion for reconsideration will be denied. However, I will give him additional time until January 24, 2011 to submit his initial partial payment.

ORDER

IT IS ORDERED that petitioner's motion for reconsideration of the December 27, 2010 order, dkt. 21, is DENIED.

Further, IT IS ORDERED that petitioner may have an enlargement of time to January 24, 2011, in which to pay his initial partial payment for filing his appeal.

Entered this 10th day of January, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge