

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

FRANCISCO JAVIER ESTRADA,

Petitioner,

v.

WARDEN HOLINKA,

Respondent.

MEMORANDUM

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 submitted a motion for reconsideration of the December 27, 2010 order. I denied his request to proceed in forma pauperis without paying an initial partial filing fee under Fed. R. App. P. Rule 24 (a)(2). On January 21, 2011, the Court of Appeals for the Seventh Circuit denied petitioner's request for relief from paying the initial partial filing fee and gave petitioner until February 7, 2011 to make the initial partial payment. On January 27, 2011, petitioner paid the \$10.18 initial partial filing fee.

On February 3, 2011, petitioner submitted a letter entitled "Motion for Relief from Order and Disqualification of Judge." This motion was not addressed because petitioner's case was on

appeal and the appellate court had affirmed that petitioner needed to pay the filing fee.

On March 28, 2011, petitioner filed a letter asking the court to rule on his earlier motion for relief from order and disqualification of judge. Because petitioner's appeal divests this court of jurisdiction to consider petitioner's motion for relief from judgment and for his motion to disqualify this court, I cannot address his request. Although petitioner asserts that his earlier motion was "put in limbo," that is not the case. It was not addressed because this court lacks jurisdiction to do so.

Entered this 28th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge