

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

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BENJAMIN WALKER,

Petitioner,

v.

PETER HUIBREGTSE,

Respondent.

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ORDER

10-cv-692-bbc

On November 12, 2010, I assessed petitioner a partial payment of the \$5 filing fee in the amount of \$0.44 and gave him until December 1, 2010, in which to make the payment. Now petitioner has filed two letters in which he asks the court to waive the payment because the only money he receives is from a legal loan and Wisconsin Administrative Code does not permit the payment of filing fees from a legal loan. Although petitioner asserts that his lack of income precludes him from paying the assessed amount, I cannot find that he qualifies for a waiver of the partial filing fee.

This court uses one method for determining the indigent status of all institutionalized persons, even in cases like this one that fall outside of the Prison Litigation Reform Act. *See Longbehn v. United States*, 169 F.3d 1082 (7th Cir. 1999). In *Longbehn*, the court of appeals held that even in cases where the PLRA did not apply, a litigant has a legal responsibility to pay the filing and docketing fees to the extent feasible. Further, the court said, “putting 20% of one’s available balance (or average monthly income) towards this legal obligation is not an undue burden on filing a suit or taking an appeal.” *Id.*

The trust fund account statement petitioner submitted at the time he filed this case, shows that in the six-month period immediately preceding the filing of his petition that he had five deposits into his account. Therefore, petitioner’s request to waive the \$0.44 partial

filing fee is denied. However, I will allow petitioner an additional three-weeks, until December 22, 2010 to submit the \$0.44 payment towards the filing fee in this case. Petitioner should show a copy of this order to prison officials to insure that they are aware they should send petitioner's initial partial payment to this court.

#### ORDER

IT IS ORDERED that petitioner Benjamin Walker may have until December 22, 2010, in which to submit a check or money order made payable to the clerk of court in the amount of \$0.44. If, by December 22, 2010, petitioner fails to make the partial payment or show cause for his failure to do so, the clerk of court is directed to close this case for petitioner's failure to prosecute it.

Entered this 23<sup>rd</sup> day of November, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge