

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

DA VANG,

Plaintiff,

v.

MICHAEL W. HOOVER, Judge for
the Wisconsin Court of Appeals, District 3,
in his individual and official capacities,

Defendant.

ORDER

11-cv-150-slc

In an order dated March 29, 2011, this case was closed for plaintiff Da Vang's failure to pay the amount he is in arrears under 28 U.S.C. § 1915(b)(2) in Vang v. Marathon County Sheriff Department, 97-C-614-C. In the order, I told plaintiff that he would be able to renew his request for leave to proceed in forma pauperis in this case as soon as his payments for the fee in his earlier case is up to date. Now plaintiff has paid the amount that he is arrears, which is \$109.07. Plaintiff has also submitted a motion to reopen the case. The motion will be granted.

Plaintiff has neither paid the \$350 filing fee for filing a civil action nor submitted a request for leave to proceed in forma pauperis. Therefore, I construe his motion to reopen

the case to include a request for leave to proceed in forma pauperis. The court will delay its decision on the request until plaintiff pays an initial partial payment of the \$350 filing fee as required by 28 U.S.C. § 1915(b) and the 1996 Prison Litigation Reform Act. The court cannot yet calculate plaintiff's initial partial payment because he did not submit a trust fund account statement with his complaint.

Plaintiff filed his motion to reopen the case on May 20, 2011. His trust fund account statement should cover the six-month period beginning near November 20, 2010 and ending around May 20, 2011. Once plaintiff has submitted the necessary statement, I will calculate his initial partial payment and advise him of the amount he will have to pay before the court can screen the merits of his complaint under 28 U.S.C. § 1915(e)(2). Plaintiff should show a copy of this order to jail officials to make sure that they are aware they should send a copy of plaintiff's six-month trust fund account statement to this court.

ORDER

IT IS ORDERED that

1. Plaintiff Da Vang's motion to reopen the case, dkt. 11, is GRANTED.
2. Plaintiff may have until June 13, 2011, in which to submit a certified copy of his trust fund account statement for the period beginning approximately November 20, 2010 and ending approximately May 20, 2011. If, by June 13, 2011 plaintiff fails to respond to

this order, I will assume that he wishes to withdraw this action voluntarily. In that event, the clerk of court is directed to close this case without prejudice to plaintiff's filing his case at a later date.

Entered this 23d day of May, 2011.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge