

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

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JOHNSON CARTER,

Petitioner,

v.

RANDALL H. HEPP, Warden,

Respondent.  
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ORDER

11-cv-221-bbc

Petitioner Johnson Carter, a prisoner at the Jackson Correctional Institution in Black River Falls, Wisconsin, has filed an application for a writ of habeas corpus under 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.

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 filing fee. According

to the trust account statement, in the past six months petitioner's monthly deposits have averaged \$75.51. Twenty percent of this figure is \$15.10. 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 19, 2011, his petition will be dismissed for his failure to prosecute it.

#### ORDER

IT IS ORDERED that the petition of Johnson Carter for leave to proceed in forma pauperis is DENIED. Petitioner has until April 19, 2011 in which to pay the \$5 filing fee. If he fails to submit the fee by April 19, 2011, his petition will be dismissed.

Entered this 29th day of March, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge