

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

KELLEY HOWE,

Plaintiff,

v.

MIDDLETON VILLAGE NURSING AND REHAB
CENTER and WILLIAM WATSON,

Defendants.

ORDER

11-cv-247-slc

This is a proposed civil action for relief brought under 42 U.S.C. § 1983. Plaintiff Kelley Howe alleges the defendants failed to provide adequate medical care for his mother, which caused her death on March 25, 2011. Plaintiff has asked for leave to proceed *in forma pauperis* and has supported his request with an affidavit of indigency. The standard for determining whether plaintiff qualifies for indigent status is the following:

- From plaintiff's annual gross income, the court subtracts \$3700 for each dependent excluding the plaintiff.
- If the balance is less than \$16,000, the plaintiff may proceed without any prepayment of fees and costs.
- If the balance is greater than \$16,000 but less than \$32,000, the plaintiff must prepay half the fees and costs.
- If the balance is greater than \$32,000, the plaintiff must prepay all fees and costs.
- Substantial assets or debts require individual consideration.

In this case, plaintiff lists his monthly income as \$541, which is \$6,492 a year. In plaintiff's other case (11-cv-179), he also lists \$16,644 as income from Social Security Disability

Insurance, which is set to end in April, 2011. This amount will be included in plaintiff's total annual income for the past year. Plaintiff's total annual income is then \$23,016. Because plaintiff's income falls in the \$16,000 to \$32,000 range, he must prepay half of the \$350 fee for filing this case. Once payment has been received, the court will review the merits of plaintiff's complaint to determine whether one or more claims must be dismissed as frivolous or malicious, for failure to state a claim on which relief may be granted or because plaintiff is seeking money damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

ORDER

IT IS ORDERED that plaintiff Kelley Howe may have until April 26, 2011, in which to submit the \$175 prepayment of the filing fee for this lawsuit. If, by April 26, 2011, plaintiff fails to submit this prepayment, the clerk of court is directed to enter judgment dismissing this case without prejudice for plaintiff's failure to prosecute it.

Entered this 6th day of April, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge