

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

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MICHAEL SCOTT,

Plaintiff,

v.

ORDER

11-cv-90-bbc

LORRAINE MCCABE, NEAL CONLEY,  
SCOTT PELOWSKI, PAUL THOMPSON,  
MARLYN TINSLEY and MICHAEL KOCH,

Defendants.

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This case was dismissed without prejudice on May 9, 2011 when plaintiff failed to pay the \$0.03 initial partial payment of the \$350 fee for filing this case. I advised plaintiff that if, at some future time, enough time elapses that a six month trust fund account statement would show that he has no means to make an initial partial payment, he would be free to file a motion to reopen this case. Now plaintiff has filed a motion to reopen, along with a trust fund account statement covering the six months preceding June 1, 2011. This statement shows that plaintiff has had no deposits in the last six months. Therefore, plaintiff's case will be reopened and he can proceed without making an initial partial payment. Plaintiff's complaint will be taken under advisement for screening pursuant to 28

U.S.C. § 1915(e)(2). Leave to proceed will not be granted if the action must be dismissed as malicious or legally “frivolous,” a term that means that the complaint does not allege a claim of any kind. Leave can be denied also if the complaint does not state a claim on which plaintiff could obtain relief under the law or if plaintiff is asking for money from a defendant who is legally protected from having to pay money in his case.

Plaintiff should be aware that he is obligated to pay the \$350 filing fee, even if this court determines that he will not be permitted to proceed with his complaint in forma pauperis and even if he does not presently have funds with which to pay the fee. 28 U.S.C. § 1915(b)(1). His account will be monitored and the fee must be taken in monthly installments when the funds exist.

#### ORDER

IT IS ORDERED that plaintiff Michael Scott’s motion to reopen this case, dkt. #17, is GRANTED. Plaintiff’s complaint is taken under advisement for screening pursuant to 28 U.S.C. § 1915(e)(2).

Further, the Clerk of Court is directed to insure that the court’s financial records reflect that plaintiff owes the \$350 fee for filing this case, in accordance with the

requirements of the Prison Litigation Reform Act.

Entered this 7th day of June, 2011.

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