

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

SYLVESTER JACKSON,

Plaintiff,

v.

MR. FLIEGER, MS. BEAMAN,
CAPT. JENSEN and CAPT. FOSTER,

Defendants.

ORDER

12-cv-220-bbc

Plaintiff Sylvester Jackson's case was closed on May 2, 2012 when he failed to pay the \$24.94 initial partial filing fee he was assessed when the court severed this case from 11-cv-774-bbc. Now, plaintiff has written a letter requesting an order directing the institution's business office to take this payment from his release account. Plaintiff's request will be granted.

The language in 28 U.S.C. § 1915(b)(1) suggests that prison officials are required to use a prisoner's release account to satisfy an initial partial payment if no other funds are available. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if plaintiff does not have the money to make the initial partial payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. The only amount plaintiff must pay at this time is the \$24.94 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes. Plaintiff should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that plaintiff Sylvester Jackson's motion to use release account funds as provided herein to pay the initial partial payment of \$24.94 is GRANTED. Plaintiff may have an extension of time until June 21, 2012 in which to submit the \$24.94 initial partial filing fee. Upon receipt of the initial partial payment, this case will be reopened and plaintiff's complaint taken under advisement for a determination whether any portion of either complaint must be dismissed as frivolous or malicious, for failure to state a claim upon which relief may be granted or because plaintiff is seeking damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2).

Entered this 29th day of May, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge