

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

PRINCE P. BECK,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER

12-cv-780-bbc

In an order entered on October 25, 2012, I told plaintiff Prince Beck that before I could consider his motion to initiate a civil equitable proceeding for the return of property seized in relation to his closed criminal case, he would have to submit a trust fund account statement covering the six-month period preceding the filing of his complaint so that I could assess an initial partial payment of the \$350 fee for filing this case. Plaintiff has submitted the requested statement along with a response to the order in which he contends that the court has erred in directing him to pay an initial partial filing fee before addressing the merits of plaintiff's motion for the return of property.

As I explained to plaintiff in the October 25 order, because he has already been convicted, a motion brought under Fed. R. Crim. P. 41(g) is considered to be a complaint, beginning a civil action. United States v. Shaaban, 602 F.3d 877, 878-89 (7th Cir. 2010). The filing fee for bringing a civil case is \$350. In 28 U.S.C. § 1915, Congress has prescribed

the manner in which prisoners must pay the fees for filing federal lawsuits; the courts have no discretion to modify the requirement. Accordingly, I will use the account statement plaintiff has filed to calculate a partial payment of the filing fee. From the statement, I have calculated plaintiff's initial partial payment to be \$19.46. 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 Prince Beck is assessed \$19.46 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$19.46 on or before December 28, 2012. If, by December 28, 2018, plaintiff fails to make the initial partial payment or show cause for his failure to do so, I will assume that he does not wish to pursue his motion for the return of his property. In that event, the clerk of court is directed to close this file without prejudice to plaintiff's filing his case at a later date.

Entered this 30th day of November, 2012.

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