

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

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SAMUEL HAYWOOD MYLES,

Petitioner,

v.

ROBERT WERLINGER,  
Warden, Oxford Federal Correctional Institution,

Respondent.

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ORDER

13-cv-16-bbc

In response to this court's January 30, 2013, order, petitioner has submitted a copy of his six-month trust fund account statement so that I can determine whether he qualifies for indigent status and, if he does, calculate an initial partial payment of the \$5 fee for filing this case.

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 \$66.81. Twenty percent of this figure is \$13.36. 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 February 27, 2013, his petition will be dismissed for his failure to prosecute it.

ORDER

IT IS ORDERED that Samuel Myles's request for leave to *proceed in forma pauperis* is DENIED. Petitioner has until February 27, 2013 in which to pay the \$5 filing fee. If he fails to submit the fee by February 27, 2013, his petition will be dismissed for failure to prosecute it.

Entered this 6<sup>th</sup> day of February, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge