

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

DAVID E. BOWERS, JR.,

Petitioner,

v.

WILLIAM POLLARD,

Respondent.

ORDER

13-cv-63-bbc

Petitioner David Bowers, a prisoner at the Waupun Correctional Institution in Waupun, Wisconsin, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He requests leave to proceed *in forma pauperis*. Petitioner has supported his request with an affidavit of indigency and a six-month trust account statement from the institution.

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 immediately preceding the filing of his habeas corpus petition. 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 at least a portion of the the filing fee. According to the trust account statement, in the past six months petitioner's average monthly deposits have been \$10.63. (His average monthly balance in his regular account is \$0.00.) Twenty percent of this figure is \$2.17. Accordingly, I will grant petitioner's application for leave to proceed *in forma pauperis* on the condition that he prepay \$2.17.

ORDER

IT IS ORDERED that the petition of David Bowers for leave to proceed *in forma pauperis* is GRANTED on the condition that he prepay the amount of \$2.17. Petitioner has until February 28, 2013 to pay this amount. If he fails to submit the partial filing fee by February 28, 2013, his petition may be dismissed for failure to prosecute it.

Entered this 7th day of February, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge