

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

JAMES ROBINSON,

Petitioner,

v.

WARDEN TAGIEL,

Respondent.

ORDER

13-cv-116-wmc

Petitioner James Robinson, a prisoner at the Jackson Correctional Institution in Black River Falls, 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 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 \$38.30. Twenty percent of this figure is \$7.66. 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 March 12, 2013, his petition will be dismissed for his failure to prosecute it.

ORDER

IT IS ORDERED that the petition of James Robinson for leave to *proceed in forma pauperis* is DENIED. Petitioner has until March 15, 2013 in which to pay the \$5 filing fee. If he fails to submit the fee by March 15, 2013, his petition will be dismissed for failure to prosecute it.

Entered this 21st day of February, 2013.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge