

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION**

RONALD L. WELLS, SR.,)
)
Plaintiff,)
)
v.)
)
ROBERT M. SPEARS, OFFICE OF THE)
PEORIA COUNTY CIRCUIT CLERK,)
and UNKNOWN EMPLOYEES OF THE)
PEORIA COUNTY CIRCUIT CLERKS)
OFFICE,)
)
Defendants.)

Case No. 11-cv-1025

O P I N I O N and O R D E R

Before the Court is the Motion for Leave to Proceed in forma pauperis (Doc. 2) filed by Plaintiff, Ronald L. Wells, Sr. The Motion is GRANTED.

Title 28 U.S.C. § 1915 provides that a civil proceeding may proceed without prepayment of the filing fee provided an inmate “submits an affidavit that includes a statement of all assets such prisoner possess that the person is unable to pay such fees or give security therefore.” Petitioner states that he is currently incarcerated and that he is employed (in the prison law library) and earns \$28.00 per month. His prison trust fund account reveals a balance of \$1.57 with an available balance of -\$3.55. In accordance with § 1915, this Court finds that Petitioner is indigent and incapable of paying the full filing fee at this time.

However, in accordance with § 1915(b)(1), Petitioner is required to pay an initial filing fee that equals 20% of his average monthly deposits or 20% of his average monthly balance for the preceding 6 months, whichever is greater. In the

past 6 months, Petitioner's average monthly deposits equaled \$26.90 (which includes payroll amounts of \$14.40 per month and various other deposits totaling \$75.00 from the period of July, 2010 to December, 2010) and his average monthly balance is significantly less. As such, Petitioner shall pay an initial filing fee of **\$5.38**. In addition, pursuant to § 1915(b)(2), Petitioner's custodian shall forward to the Clerk, in monthly payments, 20% of the preceding months income credited to Petitioner's account when the amount in the account exceeds \$10.00 until the full \$350.00 filing fee is paid.

IT IS THEREFORE ORDERED:

1. The Motion to Proceed in forma pauperis (Doc. 2) is GRANTED. Plaintiff shall submit the initial filing fee of **\$5.38** forthwith or no later than March 18, 2011. Failure to do so shall result in dismissal of the Complaint.
2. Upon receipt of the initial filing fee, the Clerk is directed to prepare copies of the Complaint and summons for service upon Defendants and shall deliver same to the United States Marshal for service.
3. The United States Marshal is directed to serve Defendants in accordance with Rule 4 of the Federal Rules of Civil Procedure.
4. Plaintiff is further ORDERED to serve any further documents or motions filed with the Court upon Defendants.

Entered this 18th day of February, 2010

s/ Joe B. McDade

JOE BILLY MCDADE
United States Senior District Judge