

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WILLIAM ANTEPENKO,

Plaintiff,

v.

Case No. 16-cv-1233-pp

JON E. LITSCHER, et al.,

Defendants.

**DECISION AND ORDER GRANTING THE PLAINTIFF'S MOTION
TO PAY HIS INITIAL PARTIAL FILING FEE WITH
FUNDS FROM HIS RELEASE ACCOUNT (DKT. NO. 7)**

William Antepenکو, a Wisconsin state prisoner who is representing himself, filed a complaint under 42 U.S.C. §1983, alleging his civil rights were violated. Dkt. No. 1. On September 15, 2016, U.S. Magistrate Judge David E. Jones (the judge assigned to the case at that time) entered an order requiring the plaintiff to pay \$26.74 as an initial partial filing fee.¹ Dkt. No. 5. On September 22, 2016, the plaintiff refused to consent to jurisdiction by a magistrate judge, so the clerk of court reassigned the case to this court. Also on September 22, 2016, the plaintiff filed a motion asking that he be allowed to pay the initial partial filing fee with funds from his release account. Dkt. No. 7.

¹As pointed out by the plaintiff, the order accidentally stated two different initial partial filing fee amounts; on September 22, 2016, however, Judge Jones entered an amended order clarifying that the initial partial filing fee in this action is \$26.74 (Dkt. No. 8).

The Prison Litigation Reform Act (PLRA) requires the court to collect filing fees from a “prisoner’s account.” 28 U.S.C. §1915(b). The term “prisoner’s account” encompasses both a prisoner’s release account and general account. Spence v. McCaughtry, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). However, “given the purpose of the release account to provide funds to the prisoner upon his or her release from incarceration, the Court does not deem it prudent to routinely focus on the release account as the initial source of funds to satisfy the filing fee payment requirements of the PLRA.” Smith v. Huibregtse, 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001). Nevertheless, upon request, a court may allow a plaintiff to pay a filing fee, or a portion thereof, out of his release account. Doty v. Doyle, 182 F. Supp. 2d 750, 752 (E.D. Wis. 2002).

The plaintiff’s desire to pay his initial partial filing fee with funds from his release account is clear, and he represents that his release account has adequate funds to cover the fee. Accordingly, the court will grant the plaintiff’s motion to pay the fee with funds in his release account.

The court **ORDERS** that the plaintiff’s motion to pay his initial partial filing fee with funds from his release account (Dkt. No. 7) is **GRANTED**.

The court further **ORDERS** that the warden of Oshkosh Correctional Institution shall withdraw \$26.74 from the plaintiff’s release account and forward that sum to the clerk of court as payment for the initial partial filing fee in this action. The warden shall make such payment by **October 17, 2016**.

The court will mail a copy of this order to the warden of Oshkosh Correctional Institution.

Dated in Milwaukee, Wisconsin this 23rd day of September, 2016.

BY THE COURT:

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

HON. PAMELA PEPPER
United States District Judge