

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

MICHAEL B. FLANIGAN,)
)
 Petitioner,)
)
 v.)
)
 DENNIS SMITH,)
)
 Respondent.)

Case No. 09-cv-1205

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

Before the Court is a Letter filed by Petitioner, Michael B. Flanigan, on January 14, 2010 (Doc. 14).

A Petition pursuant to § 2241 was filed on June 11, 2009 in which Petitioner challenged various sanctions imposed as a result of prison disciplinary proceedings. Petitioner failed to pay the filing fee or submit a motion to proceed *in forma pauperis*. The Court pointed out the deficiency and Petitioner subsequently sought to proceed without the prepayment of fees. On August 26, 2009, this Court granted the *in forma pauperis* petition (Doc. 7) and directed Petitioner to pay an initial partial filing fee of \$1.33.

Since the time of that Order, no partial filing fee has been paid. Petitioner was granted two extensions of time, on October 13, 2009 and December 8, 2009, to pay the filing fee. In the last Order, Petitioner was warned that if he failed to pay the initial partial filing fee by December 14, 2009, the Petition would be dismissed for want of prosecution.

On January 14, 2010 Petitioner submitted a letter stating that he just received this Court's December 8, 2009 Order (setting the deadline for payment of the initial filing fee) and that he does not have the funds to pay the initial filing fee (Doc. 14). The Court notes that when the original IFP motion was filed, Petitioner's trust fund account had an average monthly deposit of \$6.66 for the preceding 6 months but only an available balance of \$0.03. As such, Petitioner would not have been able to pay the initial filing fee unless additional deposits were made to his account. This Court further notes that Petitioner represented that he did not have a prison job and that the only deposits were monies sent by his family. In the letter before the Court, Petitioner represents that he has been unable to acquire additional funds from his family.

As an added complication, Petitioner now has been transferred to USP McCreary in Pine Knot, Kentucky. Title 28 U.S.C. § 2241(a) provides that this Court may only grant a writ within its respective jurisdiction. Petitioner no longer is within this Court's jurisdiction and this Court therefore has no power to grant Petitioner relief.

As such, this matter is hereby TRANSFERRED to the District Court for the Eastern District of Kentucky.

Entered this 21st day of April, 2010

s/ Joe B. McDade

JOE BILLY MCDADE
Senior United States District Judge