

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

LEVANT WALKER,)	
)	
Petitioner,)	
)	
v.)	Case No. 10-cv-1070
)	
WARDEN PEIRCE,)	
)	
Respondent.)	

OPINION & ORDER

This matter is before the Court on Petitioner’s renewed Application to Proceed in forma pauperis (Doc. 2). For the following reasons, the Application to Proceed in forma pauperis is GRANTED.

Petitioner submitted an Application to Proceed in forma pauperis concurrently with his original § 2254 Petition. (Doc. 2). Under 28 U.S.C. § 1915, the Court may authorize a prisoner to proceed with a lawsuit without prepayment of fees. In addition to the affidavit that Petitioner completed, prisoners seeking to proceed in forma pauperis “shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint or notice of appeal, obtained from the appropriate official of each prison at which the prisoner is or was confined.” 28 U.S.C. § 1915(a)(2). With his initial Application, Petitioner submitted no such copy of his trust fund account statement, and so his Application to Proceed in forma pauperis was denied. (Doc. 4). Petitioner was granted leave to renew his

Application to Proceed in forma pauperis by submitting a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of his Petition. After Petitioner indicated in a letter to the Court that he wished to renew his Application, but that he had been unable to obtain the trust fund ledger from the prison, the Clerk requested the ledger directly from the prison, which was received on May 19, 2010. (Docs. 5 & 10). The Court is now in a position to consider Plaintiff's renewed Application.

In his affidavit, Petitioner asserts that he has no income or property, and his prison trust fund account statement reflects a balance of \$9.76 as of April 12, 2010; Plaintiff has had two \$20 deposits to his account in the last six months. Therefore, in accordance with § 1915, this Court finds that Petitioner is indigent and incapable of paying the full filing fee at this time. However, § 1915(b) requires Petitioner to pay an initial partial filing fee that equals 20% of his average deposits or 20% of his average monthly balance for the preceding 6 months, whichever is greater, and to thereafter make monthly payments of 20% of his monthly income until his full filing fee is paid. Petitioner's average monthly balance is \$7.10, and his deposits average \$6.65.

IT IS THEREFORE ORDERED that Petitioner's renewed Application to Proceed in forma pauperis (Doc. 2) is GRANTED. Pursuant to § 1915(b)(2), Petitioner's custodian SHALL forward \$1.42, which is 20% of Petitioner's average monthly balance, to the Clerk in partial payment of Petitioner's filing fee. In addition, each time the balance in Petitioner's account exceeds \$10.00, Petitioner's

custodian SHALL forward to the Clerk, in monthly payments, 20% of the preceding month's income credited to Petitioner's account, until the full \$5.00 filing fee is paid. The Clerk is DIRECTED to send a copy of this Order to both Petitioner and to the trust fund department at Pontiac Correctional Center.

Entered this 20th day of May, 2010.

s/ Joe B. McDade

JOE BILLY McDADE
United States Senior District Judge