

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GREBERT FRANCILME,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 15-cv-30033-KAR
)	
CHRISTOPHER J. DONELAN,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

ROBERTSON, U.S.M.J.

On February 26, 2015, petitioner Grebert Francilme, an immigration detainee currently held at the Franklin County Jail and House of Correction in Greenfield, Massachusetts, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Docket No. 1), as well as a Motion for Leave to Proceed In Forma Pauperis (Docket No. 2), which is pending before this court. For the reasons set forth below, the court (1) denies without prejudice petitioner’s Motion for Leave to Proceed In Forma Pauperis, and (2) orders the respondent to file an answer or other responsive pleading.

A party filing a habeas action in this court must either (1) pay the \$5.00 filing fee for habeas corpus actions; or (2) seek leave to proceed without prepayment of the filing fee. *See* Fee Schedule for the District of Massachusetts (\$5.00 fee to file writ of habeas corpus); 28 U.S.C. § 1914(a) (fees); 28 U.S.C. § 1915 (proceeding in forma pauperis). A motion for leave to proceed in forma pauperis, or to proceed without prepayment of fees, must be accompanied by “a certificate from the warden or other appropriate officer of the place of confinement showing the

amount of money or securities that the petitioner has in any account in the institution.” Rule 3(a) of the Rules Governing Section 2254 Cases.¹

Here, although petitioner has completed and submitted both pages of the application to proceed without prepayment of fees, he has failed to submit a certified prison account statement in support of his motion. Thus, petitioner’s motion to proceed in forma pauperis will be denied without prejudice to his submitting his prison accounts statement.

ORDER

Accordingly, it is hereby ordered that:

1. The Motion to Proceed In Forma Pauperis (Docket No. 2) is DENIED without prejudice. If petitioner wishes to proceed with this action, within 21 days of the date of this Order, he either must (1) pay the \$5.00 filing fee; or (2) file a certified prison account statement with the court. Failure of petitioner to comply with this directive may result in the dismissal of this action without prejudice. The clerk shall send a copy of this Order to the Treasurer’s Office as the prison facility where petitioner is detained, in order to facilitate any request by petition for his certified prison account statement;
2. The Clerk of this Court shall serve a copy of the Petition upon (i) respondent; (ii) the office of the United States Attorney General, and (iii) the United States Attorney;
3. The respondent shall, within 21 days of receipt of this Order, file an answer or other responsive pleading; and
4. The respondent shall provide the court with at least 48 hours (i.e., 2 business days) advance notice of any scheduled removal of petitioner, and any schedule transfer of

¹ The Rules Governing Section 2254 and 2255 Cases may be applied at the discretion of the district court to other habeas petitions. *See* Rule 1(b) of the Rules Governing Habeas Corpus Cases Under Section 2254.

the petitioner out of the jurisdiction.

It is so ordered.

DATED: March 6, 2015

/s/ Katherine A. Robertson
KATHERINE A. ROBERTSON
United States Magistrate Judge