## UNITED STATES OF AMERICA UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION

	TROY	ANTHONY	WOODS.
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	Petitioner,		Case No. 1:12-cv-672
v. WILLIE O. SMITH,			Honorable Paul L. Maloney
	Respondent.	/	

## ORDER DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS

This is a habeas corpus action brought by a state prisoner pursuant to 28 U.S.C. § 2254. Petitioner has requested leave of court to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a)(1) and has filed an affidavit of indigence. The filing fee for a habeas corpus action is \$5.00. 28 U.S.C. § 1914(a). The Court should only grant leave to proceed *in forma pauperis* when it reasonably appears that paying the cost of this filing fee would impose an undue financial hardship. *Prows v. Kastner*, 842 F.2d 138, 140 (5th Cir. 1988). It is not unreasonable to require a prisoner to devote a small portion of his discretionary funds to defray a fraction of the costs of his litigation. *See Lumbert v. Ill. Dep't of Corr.*, 827 F.2d 257, 267 (7th Cir. 1987).

Petitioner has filed a trust account statement, which shows that over the past six months Petitioner has had an average monthly deposit of \$28.73. At the time of filing his petition, Petitioner had a spendable balance of \$34.67. Petitioner's financial documents indicate that he has sufficient resources to pay the \$5.00 filing fee. Therefore, Petitioner is not entitled to proceed *in forma pauperis* in this action. Petitioner has 28 days from the date of entry of this order to pay the

\$5.00 filing fee. If Petitioner fails to pay the filing fee within the 28-day period, his case will be

dismissed without prejudice. Accordingly:

IT IS ORDERED that Petitioner's application for leave to proceed in forma pauperis

(docket #2) is DENIED.

IT IS FURTHER ORDERED that within 28 days hereof, Petitioner shall pay the

\$5.00 filing fee to the Clerk of this Court. Petitioner's failure to comply with this order will result

in dismissal of this case without prejudice.

Dated: <u>July 20, 2012</u>

/s/ Paul L. Maloney

Paul L. Maloney

Chief United States District Judge

**SEND REMITTANCES TO THE FOLLOWING ADDRESS:** 

Clerk, U.S. District Court 399 Federal Building

110 Michigan Street, NW

Grand Rapids, MI 49503

All checks or other forms of payment shall be payable to "Clerk, U.S. District Court."

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