

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

LEWIS FITZGERALD DYER,

Petitioner,

v.

**DENNIS BAKEWELL, Warden, and
NEBRASKA STATE PENITENTIARY,**

Respondents.

CASE NO. 8:11CV312

**MEMORANDUM
AND ORDER**

This matter is before the court on Petitioner's Motion for Leave to Proceed In Forma Pauperis ("IFP"). (Filing No. [2](#).) Habeas corpus cases attacking the legality of a person's confinement require the payment of a \$5.00 fee. [28 U.S.C. § 1914\(a\)](#). The court has reviewed the application to proceed IFP pursuant to [28 U.S.C. § 1915\(a\)\(1\)-\(2\)](#). Petitioner's trust account information shows that Petitioner's account contained an average monthly balance of \$100 or more for the six-month period immediately preceding the filing of the petition. (Filing No. [3](#).) Thus, the court concludes that Petitioner must be required to pay the \$5.00 filing fee because Petitioner has the financial ability to do so. See [28 U.S.C. § 1915\(a\)](#). No further review of this case will take place until the fee is paid.

IT IS THEREFORE ORDERED that:

1. Petitioner's application to proceed IFP (Filing No. [2](#)) is denied.
2. Petitioner is granted until **October 27, 2011** to pay the \$5.00 filing fee. Petitioner is warned that if the fee is not paid as required, the court may dismiss this case without further notice.
3. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: **October 27, 2011**: deadline for Petitioner to pay \$5.00 filing fee.

4. No further review of this case will take place until the filing fee is paid.

DATED this 27th day of September, 2011.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge