

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

GLEN HUGHIE LOVIN, JR.,)	
)	
Petitioner,)	
)	
v.)	No. CIV 14-384-RAW-KEW
)	
JOE M. ALLBAUGH, DOC Director,)	
)	
Respondent.)	

OPINION AND ORDER

On May 14, 2018, Petitioner submitted a letter to the Court which was construed as a motion to reconsider the Court's Order denying leave to proceed *in forma pauperis* on appeal (Dkts. 34, 35). Petitioner argues that because the state courts found him indigent, he should not have been required to pay the filing fee for his appeal to the Tenth Circuit Court of Appeals.¹ He, therefore, requests a refund of the \$505.00 appellate filing fee he paid on December 1, 2017.

As explained in the Court's Order denying *in forma pauperis* status (Dkt. 31), Local Civil Rule 3.3(e) determines whether a habeas petitioner is required to pay a district court or appellate filing fee:

In forma pauperis status may be denied a prisoner seeking to bring a civil action, or appeal a judgment in a civil action, if the total balance of the prisoner's institutional accounts equals or exceeds the sum of the required filing fee plus \$10.00. In the event *in forma pauperis* status is denied, payment of the entire filing fee shall be required to commence the action or appeal.

Local Civil Rule 3.3(e). Because Petitioner's Statement of Institutional Accounts (Dkt. 30 at 3) indicated he had a total of \$738.96 in his draw and savings accounts, he was not eligible to proceed

¹ Petitioner's appeal was dismissed in *Lovin v. Allbaugh*, No. 17-7064 (10th Cir. May 1, 2018) (Dkt. 33).

in forma pauperis on appeal.

ACCORDINGLY, Petitioner's motion to reconsider the Court's Order denying leave to proceed *in forma pauperis* on appeal (Dkt. 34) is DENIED.

IT IS SO ORDERED this 17th day of May 2018.

Dated this 17th day of May, 2018.



Ronald A. White
United States District Judge
Eastern District of Oklahoma