

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

DEXTER C. BURKE

v.

MICHAEL B. MUKASEY,
U.S. Attorney General, et al.

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C.A. No. 08-431S

MEMORANDUM AND ORDER

In this matter, the Plaintiff, Dexter Burke (“Plaintiff”) filed his Petition for Writ of Habeas Corpus on November 13, 2008. (Document No. 1). Plaintiff also filed a Motion to Proceed Pro Se (Document No. 2), which was referred to me for determination. 28 U.S.C. § 636(b)(1)(A); LR Cv 72(a). Plaintiff has a statutory right to represent himself, or proceed *pro se*, in this case. See 28 U.S.C. § 1654. Thus, Plaintiff’s Motion to Proceed Pro Se (Document No. 2) is GRANTED.

Plaintiff did not, however, submit the filing fee required under 28 U.S.C. § 1914(a), to file a habeas corpus petition. The filing fee for a habeas corpus case, such as this one, is \$5.00. See 28 U.S.C. § 1914(a). In order to proceed with his Petition, Plaintiff must either submit the \$5.00 filing fee to the Court, or he must qualify to proceed in this matter without prepayment of fees and costs, pursuant to 28 U.S.C. § 1915. In order to determine if Plaintiff is eligible for *in forma pauperis* (“IFP”) status under 28 U.S.C. § 1915, Plaintiff must complete and file an Application To Proceed Without Prepayment of Fees and Affidavit. The Application contains a “Notice to Prisoner” portion which directs an incarcerated applicant to obtain a statement certified by an “appropriate institutional officer” of “all receipts, expenditures, and balances during the last six months in your institutional accounts.” In order to determine his IFP eligibility, Plaintiff must submit a properly

completed Application which is accompanied by a certified copy of his inmate account statement for the last six months.

Plaintiff's case cannot proceed until the Court either receives the \$5.00 filing fee or Plaintiff is approved for IFP status. Accordingly, Plaintiff is ordered to submit the \$5.00 filing fee to the Court, or file an IFP Application accompanied by the proper documentation concerning his inmate account by **December 15, 2008** or risk having this matter dismissed for nonpayment of the required filing fee. The Clerk is directed to provide Plaintiff with a copy of the Application.

So ordered.

PER ORDER:

/s/ Jeannine Noel
Deputy Clerk

ENTER:

/s/ Lincoln D. Almond
Lincoln D. Almond
United States Magistrate Judge
November 14, 2008