

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

RICHARD RIVERA §
VS. § CIVIL ACTION NO. 5:16-CV-192
DEREK EDGE, WARDEN §

MEMORANDUM OPINION AND ORDER

Petitioner, Richard Rivera, currently confined at FCI Texarkana, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner has filed a motion seeking leave to proceed *in forma pauperis* in this matter (docket entry no. 2).

Discussion

Petitioner has submitted an application to proceed *in forma pauperis*. The application states that on the date it was prepared, petitioner had a balance of \$52.61 in his inmate trust account.

Since 1892, Congress has permitted indigent persons to bring lawsuits in federal courts without prepayment of filing fees. Act of July 20, 1892, ch. 209.27 Stat. 252 (codified, as amended, at 28 U.S.C. § 1915). The applicable statute is intended to provide access to the federal courts for litigants who lack the financial resources to pay any part of the statutory filing costs. However, a district court may order users of the courts to pay the filing fees when they are financially able to do so. *See Williams v. Estelle*, 681 F.2d 946 (5th Cir. 1982).

Based on the available balance in petitioner's inmate trust account, it is clear he has sufficient assets to pay the \$5.00 filing fee applicable to this petition. Accordingly, petitioner will be denied leave to proceed *in forma pauperis* and directed to pay the \$5.00 filing fee.

ORDER

For the reasons set forth above, petitioner's motion to proceed *in forma pauperis* is **DENIED**. Petitioner shall pay the \$5.00 filing fee within thirty (30) days from the date set forth below. Failure to comply with this order may result in dismissal of this case for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

SIGNED this 29th day of December, 2016.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE