

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT W. SHEAFFER

Plaintiff.

V.

JOSEPH LEHMAN,

Defendant.

Case No. C06-5001RBL

REPORT AND
RECOMMENDATION TO
DENY PLAINTIFF'S
I.E.P. APPLICATION

Noted for February 3, 2006

The court has reviewed petitioner's application for leave to proceed *in forma pauperis* (Doc. 1). The court finds and recommends:

(1). Plaintiff is in state custody at the Special Commitment Center and in his application, plaintiff indicates that he has \$500.00 in savings and a bi-weekly income of approximately \$100.00

(2). The district court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, the court has broad discretion in denying an application to proceed in forma pauperis. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*, 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not unreasonable when the plaintiff is able to pay the initial expenses required to commence a lawsuit. *See* *Temple v. Ellerthorpe*, 586 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex. 1977); *U.S. ex rel. Irons v. Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D.

1 639 (M.D.Pa. 1974).

2 (3) Based on the above, the Court should deny plaintiff's application to proceed *in forma pauperis*,
3 Plaintiff has not shown that he is unable to pay the full filing fee (\$250.00) to proceed with his lawsuit.

4 (4) Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the
5 parties shall have ten (10) days from service of this Report to file written objections. *See also* Fed.R.Civ.P.
6 6. Failure to file objections will result in a waiver of those objections for purposes of appeal. Thomas v.
7 Arn, 474 U.S. 140 (1985). Accommodating the time limit imposed by Rule 72(b), the clerk is directed to
8 set the matter for consideration on **February 3, 2006**, as noted in the caption.

9 DATED this 9th day of January, 2006.

10 /s/ J. Kelley Arnold
11 J. Kelley Arnold
12 United States Magistrate Judge

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