

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

CHRISTOPHER BERRY,

Plaintiff-Appellant,

v.

USDC Case No. 17-C-551

USCA Case No. 18-2614

JEAN LUTSEY, *et al.*,

Defendants-Appellees.

DECISION AND ORDER

The *pro se* plaintiff in the above matter has requested that the initial partial filing fee assessed by the Court for the plaintiff's appeal be paid from his release account at Green Bay Correctional Institution. ECF No. 135. The Court assessed an initial partial filing fee of \$1.20. ECF No. 133. Plaintiff contends that he does not have sufficient funds in his regular account to pay that fee. The language of 28 U.S.C. § 1915(b)(1) suggests that a prisoner's release account may be invaded to satisfy an initial partial payment if insufficient funds are available in his regular account. *Carter v. Bennett*, 399 F. Supp. 2d 936, 936—37 (W.D. Wis. 2005).

Accordingly, the Court will **GRANT** Plaintiff's motion (ECF No. 135) in part and direct the prison officials to pay the initial partial filing fee assessed by the Court out of Plaintiff's release account, to the extent that funds in his regular account do not cover the entire amount. Thereafter, however, all payments will be made out of the plaintiff's regular account as directed in the Court's previous order, ECF No. 133.

IT IS FURTHER ORDERED that copies of this order be sent to the officer in charge of the agency where the inmate is confined.

IT IS FURTHER ORDERED that a copy of this order be sent to PLRA Attorney, United States Court of Appeals for the Seventh Circuit, 219 S. Dearborn Street, Rm. 2722, Chicago, Illinois 60604.

Dated this 13th day of August, 2018.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court