

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

EARNEST D. BEAMON, JR.,

Plaintiff,

-vs-

Case No. 15-CV-560

**WILLIAM POLLARD,
TONY MELI,
CAPTAIN O'DONOVAN, and
CO ROSENTHAL,**

Defendants.

DECISION AND ORDER

On February 8, 2016, the Court screened the plaintiff's complaint and assessed the \$334.19 balance of the filing fee. The plaintiff has now asked the Court to issue an order stating that the \$334.19 can come from the plaintiff's prison release account. The Court previously allowed the plaintiff to pay his initial partial filing fee from his release account.

The PLRA requires courts to collect filing fees from "prisoner's accounts." 28 U.S.C. § 1915(b). As stated in *Doty v. Doyle*, 182 F. Supp. 2d 750 (E.D. Wis. 2002):

the courts have found that when a prisoner's general fund has insufficient funds to pay filing fees, both the . . . Wisconsin PLRA . . . and the . . . federal PLRA . . . authorize the courts to order that the money in a prisoner's release be made available for that purpose. *Spence v. Cooke*, 222 Wis. 2d 530, 537 (Ct. App. 1998); *Spence v. McCaughtry*, 46 F. Supp. 2d 861 (E.D.

Wis. 1999). (All the same, in deference to the Wisconsin public policy behind release accounts, judges of this district do not routinely look to prisoners' release accounts when they assess initial partial filing fees under the federal PLRA, *Smith v. Huibregtse*, 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001), although they will do so upon request from the prisoner, as in *Spence v. McCaughtry*.) *Id.* at 751.

Based on the prisoner trust account statement the plaintiff submitted when he filed his complaint, the plaintiff has almost \$900 in his release account, far more than the remainder of the filing fee. Additionally, the Wisconsin Department of Corrections Inmate Locator shows that the plaintiff has more than five years until his mandatory release date. *See* <http://offender.doc.state.wi.us/lop/> (last visited, Feb. 17, 2016). The Court respects the plaintiff's choice to use his release funds to pay his filing fee and will grant his motion.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT the plaintiff's motion for order directing that the balance of the filing fee be paid from plaintiff's release account (ECF No. 13) is **GRANTED**.

IT IS FURTHER ORDERED that, upon the plaintiff's request, the warden at the correctional institution where the plaintiff is incarcerated shall withdraw a total of \$334.19 from the plaintiff's release account and forward that sum to the Clerk of this Court as the remainder of the filing

fee in this action. Such payment is to be made within 21 days of the date of this order.

IT IS FURTHER ORDERED that a copy of this order be sent to the warden at Waupun Correctional Institution.

Dated at Milwaukee, Wisconsin, this 17th day of February, 2016.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge