

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

**WALTER DEJESUS and
LESTER LEMONS, II,**

Plaintiffs,

v.

Case No. 15-cv-1532-pp

WILLIAM POLLARD, et al.,

Defendants.

**DECISION AND ORDER GRANTING PLAINTIFF LESTER LEMONS'
REQUEST TO PAY HIS INITIAL PARTIAL FILING FEE WITH
FUNDS FROM HIS RELEASE ACCOUNT (DKT. NO. 11)**

Lester Lemons, II, and Walter DeJesus, Wisconsin state prisoners, filed a *pro se* case under 42 U.S.C. §1983, alleging that the defendants violated their civil rights while they were incarcerated in the Waupun Correctional Institution. Dkt. No. 1. On December 23, 2015, the court entered an order requiring Lemons to pay \$0.33 as an initial partial filing fee. Dkt. No. 8. On January 6, 2016, Lemons filed a motion asking that the court allow him to pay this fee with funds from his release account. Dkt. No. 11.

The Prison Litigation Reform Act (PLRA) requires the court to collect filing fees from a “prisoner’s account.” 28 U.S.C. §1915(b). The term “prisoner’s account” encompasses both a prisoner’s release account and general account. Spence v. McCaughtry, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). However, “given the purpose of the release account to provide funds to the prisoner upon his or her release from incarceration, the Court does not deem it prudent to

routinely focus on the release account as the initial source of funds to satisfy the filing fee payment requirements of the PLRA.” Smith v. Huibregtse, 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001). Nevertheless, upon request, a court may allow a plaintiff to pay a filing fee, or a portion thereof, out of his release account. Doty v. Doyle, 182 F. Supp. 2d 750, 752 (E.D. Wis. 2002).

Lemons’ desire to pay his initial partial filing fee with funds from his release account is clear, and his release account appears to contain adequate funds to cover the fee. Accordingly, the court grants Lemons’ motion.

The court **ORDERS** that plaintiff Lester Lemons, III’s motion to pay his initial partial filing fee with funds from his release account (Dkt. No. 11) is **GRANTED**.

The court further **ORDERS** that the warden at Waupun Correctional Institution shall withdraw \$0.33 from Lemons’ release account and forward that sum to the clerk of court as payment for the initial partial filing fee in this action. The warden shall make that payment by **February 1, 2016**.

The court will mail a copy of this order to the warden of Waupun Correctional Institution.

Dated in Milwaukee, Wisconsin this 11th day of January, 2016.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge