

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

SCOTT E. SPATES,

Plaintiff,

v.

Case No. 16-cv-160-pp

DR. SAUVEY,

Defendant.

**DECISION AND ORDER GRANTING THE PLAINTIFF'S MOTION
TO PAY HIS INITIAL PARTIAL FILING FEE WITH
FUNDS FROM HIS RELEASE ACCOUNT (DKT. NO. 6)**

Scott Spates, a Wisconsin state prisoner who is representing himself, filed a complaint under 42 U.S.C. §1983, alleging his civil rights were violated. Dkt. No. 1. On February 16, 2016, the court entered an order requiring the plaintiff to pay \$10.10 as an initial partial filing fee. Dkt. No. 4. On February 25, 2016, the plaintiff filed a motion asking that he be allowed to pay the fee with funds from his release account. Dkt. No. 6.

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).

The plaintiff’s desire to pay his initial partial filing fee with funds from his release account is clear, and he represents that his release account contains adequate funds to cover the fee. Accordingly, the court will grant the plaintiff’s motion to pay the fee with funds in his release account.

The court **ORDERS** that the plaintiff’s motion to pay his initial partial filing fee with funds from his release account (Dkt. No. 6) is **GRANTED**.

The court further **ORDERS** that the warden of Oshkosh Correctional Institution shall withdraw \$10.10 from the plaintiff’s 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 such payment by **March 25, 2016**.

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

Dated in Milwaukee, Wisconsin this 29th day of February, 2016.

BY THE COURT:



HON. PAMELA PEPPER
United States District Judge