

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

JOVAN WILLIAMS,

Plaintiff-Appellant,

v.

USDC Case No. 19-cv-1699-bhl

KRISTIN J. JENSEN,

USCA Case No. 21-3407

Defendant-Appellee.

DECISION AND ORDER

On November 30, 2021, the Court granted Defendants' motions for summary judgment and dismissed this case. Dkt. No. 127, 128. Plaintiff Jovan Williams appealed and has requested leave to proceed *in forma pauperis* on appeal. Dkt. No. 134. On December 30, 2021, the Court informed Williams that in order to calculate the initial partial filing fee he must pay, the Prison Litigation Reform Act (PLRA) requires that he file a certified copy of his prison trust account statement for the six-month period immediately preceding the date he filed his Notice of Appeal. On January 24, 2022, Williams filed a motion explaining that he has no money in his regular account to pay for a copy of his trust account statement or to mail the statement to the Court. Williams attaches a response to an information request in which his institution's business office confirms he has no money in his regular account and that his legal loan request has yet to be processed. Williams asks the Court to order his institution to allow him to go into debt so that he can submit the required statement. Dkt. Nos. 144, 144-1.

Rather than providing Williams with the relief he requests, the Court will waive Williams' obligation to pay an initial partial filing fee and will grant his motion to appeal *in forma pauperis*.

Williams will be required to pay the \$505 filing fee for his appeal over time in the manner explained at the end of this decision. Williams' institution has confirmed that he has no money in his regular account, and Williams' motion to proceed *in forma pauperis* states that he is in segregation and has no source of regular income from the State or his family. He states that the little money his family may infrequently deposit is used to purchase hygiene products. Further, review of trust account statements that Williams previously filed in this and other more recent cases reveals that he has historically had average monthly deposits ranging from \$0.00 to under \$4.00. However, in those months he received minimal deposits, he was housed in general population where inmates receive a small monthly stipend from the State. Williams is currently housed in segregation, where inmates receive no stipend from the State. Based on the foregoing, the Court concludes that Williams lacks the assets or means to pay an initial partial filing fee. Accordingly, because Williams' appeal appears to be taken in good faith, the Court will waive his obligation to pay an initial partial filing and will grant his motion to proceed *in forma pauperis*. *See* 28 U.S.C. §1915(b)(4).

Under the PLRA, a prisoner must make monthly payments of twenty percent of the preceding month's income until the filing fee is paid in full. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will collect the money and send payments to the Court each time the amount in the account exceeds \$10.00, until the filing fees are paid. *Id.*

IT IS THEREFORE ORDERED that the Williams' motion for a Court order for his trust account statement (Dkt. No. 144) is **DENIED**.

IT IS FURTHER ORDERED that Williams' obligation to pay an initial partial filing fee is **WAIVED** because he lacks the assets and means to pay an initial partial filing fee.

IT IS FURTHER ORDERED that Williams' motion for leave to proceed *in forma pauperis* on appeal (Dkt. No. 134) is **GRANTED**.

IT IS FURTHER ORDERED that the agency having custody of Williams shall collect from his prison trust account the \$505 filing fee for his appeal by collecting monthly payments from Williams' prison trust account in an amount equal to 20% of the preceding month's income credited to his trust account and forwarding payments to the Clerk of Court each time the amount in the account exceeds \$10.00 in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the case name and number assigned to this action. If Williams is transferred to another institution—county, state, or federal—the transferring institution shall forward a copy of this order along with Williams' remaining balance to the receiving institution.

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 provided to the PLRA Attorney, United States Courts of Appeals for the Seventh Circuit, through the Court's electronic case filing system.

Dated at Milwaukee, Wisconsin on January 25, 2022.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge