

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DANIEL Z. MALDONADO,

Petitioner,

ORDER

v.

3:08-cv-0005-bbc

RICK RAEMISCH, Secretary,
Wisconsin Department of Corrections,

Respondent.

Daniel Z. Maldonado has filed what appears to be an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to Rule 3 of the Rules Governing Section 2254 Cases, the petition must be accompanied by:

- (1) the five dollar (\$5) filing fee; OR
- (2) a motion for leave to proceed *in forma pauperis*, the affidavit required by 28 U.S.C. § 1915, and a certificate from the warden or other appropriate officer of the place of confinement showing the amount of money or securities that the petitioner has in any account in the institution.

Petitioner has not submitted either the filing fee or the paperwork necessary to support a determination that he is entitled to proceed without paying the filing fee. In a note submitted with his petition, petitioner states that he was recently allowed to proceed

without paying the filing fee in a § 1983 case assigned to this court. See Maldonado v. Raemisch et al., 3:07-cv-0673-bbc.

Petitioner is mistaken insofar as he appears to believe that he may file a habeas petition without prepaying the filing fee. In case 3:07-cv-0673-bbc, the court determined from petitioner's petition and affidavit for leave to proceed *in forma pauperis* (dkt. #2) that he had funds sufficient to enable him to prepay an initial filing fee of \$68.17. I have made a copy of that petition and affidavit and will order the clerk to docket it in the instant case. Considering that document, including the attached trust fund statement, I find that petitioner is capable of paying the \$5 fee for filing a petition for a writ of habeas corpus. Accordingly,

ORDER

IT IS ORDERED that:

1. The Petition and Affidavit to Proceed Without Prepayment of Fees and/or Costs that petitioner filed in 3:07-cv-0673-bbc shall be copied and entered on the docket in this habeas case.

2. Plaintiff must pay the \$5 fee in order to file this case. He must submit a check of money order made payable to the clerk of court in the amount of \$5 on or before February 14, 2008. If he fails to submit the filing fee on or before February 14, 2008, the court will dismiss the petition for failure to prosecute.

Entered this 24th day of January, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge