

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

JERRY SAENZ,

Petitioner,

v.

GERALD BERGE, in his official capacity;
Alpha Unit Manager, MR. HOMPE;
LT. BIGGERS;
RENEA WALTZ; and
DOES 1-100; all in their official and
individual capacities,

Respondents.

ORDER

09-cv-185-slc

Petitioner Jerry Saenz, a prisoner at the Columbia Correctional Institution in Portage, Wisconsin, has submitted a proposed complaint.¹ He asks for leave to proceed *in forma pauperis*. Because petitioner is a prisoner, he is subject to the 1996 Prisoner Litigation Reform Act. This means that before this court may decide whether he can proceed with his complaint *in forma pauperis*, petitioner will have to make an initial partial payment of the filing fee. From the trust fund account statement petitioner has submitted, I calculate his initial partial payment to be \$.85. Also, he must pay the remainder of the fee in monthly installments even if his request for leave to proceed is denied. If petitioner does not have the money to make the initial partial

¹Petitioner's proposed complaint is dated September 30, 2001. A letter attached to the complaint reveals that this court returned petitioner's complaint to him on October 12, 2001, because he had not signed the pleading. Now, over seven years later, petitioner has returned the signed complaint to this court. His affidavit of indigency is dated March 25, 2009 and the accompanying trust fund account statement covers the most recent six-month period.

payment in his regular account, he will have to arrange with prison authorities to pay some or all of the assessment from his release account. This does not mean that petitioner is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount petitioner must pay at this time is the \$.85 initial partial payment. Before prison officials take any portion of that amount from petitioner's release account, they may first take from petitioner's regular account whatever amount up to the full amount petitioner owes. Petitioner should show a copy of this order to prison officials to insure that they are aware they should send petitioner's initial partial payment to this court.

ORDER

IT IS ORDERED that petitioner is assessed \$.85 as an initial partial payment of the \$350 fee for filing this case. He is to submit a check or money order made payable to the clerk of court in the amount of \$.85 on or before April 23, 2009. If, by April 23, 2009, petitioner fails to make the initial partial payment or show cause for his failure to do so, he will be held to have withdrawn this action voluntarily. In that event, the clerk of court is directed to close this

file without prejudice to petitioner's filing his case at a later date.

Entered this 3rd day of April, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge