

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

TAYR KILAAB AL GHASHIYAH (KHAN),

Petitioner,

ORDER

v.

09-cv-236-slc

PETER HUIBREGTSE, Warden,
Wisconsin Secure Program Facility,

Respondent.

Petitioner Tayr Kilaab al Ghashiyah (Khan), a prisoner at the Wisconsin Secure Program Facility in Boscobel, Wisconsin, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He requests leave to proceed *in forma pauperis*. Petitioner has supported his request with an affidavit of indigency and a six-month trust account statement from the institution.

In determining whether to allow a prisoner to proceed *in forma pauperis*, this court uses the following formula. First, the court determines petitioner's average monthly deposits and his average monthly balance for the six-month period mentioned above. If 20% of the greater of these two figures is \$5 or more, the petitioner is not eligible for indigent status and will have to prepay all of the \$5 filing fee. If 20% of the greater of these two figures is less than \$5, he will be required to prepay whatever portion less than \$5 has been calculated.

Applying this formula to petitioner, I find that he is able to pay the filing fee. According to the trust account statement, in the past six months petitioner's average monthly balance has been \$100.86. Twenty percent of this figure is \$20.17. Accordingly, I will deny petitioner's application for leave to proceed *in forma pauperis*. To proceed further on his habeas petition,

petitioner must pay the \$5 filing fee. If he fails to pay the fee by May 11, 2009, his petition will be dismissed for his failure to prosecute it.

ORDER

IT IS ORDERED that the petition of Tayr Kilaab al Ghashiyah for leave to proceed *in forma pauperis* is DENIED. Petitioner has until May 11, 2009 to pay the \$5 filing fee. If he fails to submit the fee by May 11, 2009, his petition will be dismissed for failure to prosecute it.

Entered this 22nd day of April, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge