

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

JAMES MARQUITON BLACK,

ORDER

Plaintiff,

v.

09-cv-672-slc

LORI ALSUM - R.N. - HSU and
DALIA SULIENE - M.D.,

Defendants.

In an order entered in this case on November 6, 2009, I told plaintiff that before I could consider his request to proceed *in forma pauperis* he would have to submit a trust fund account statement covering the six-month period preceding the filing of his complaint so that I could assess an initial partial payment of the \$350 fee for filing this case. Plaintiff has submitted the requested statement. From the statement, I have calculated plaintiff's initial partial payment to be \$5.50. If plaintiff does not have the money to make the initial partial 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 plaintiff is free to ask prison authorities to pay *all* of his filing fee from his release account. The only amount plaintiff must pay at this time is the \$5.50 initial partial payment. Before prison officials take any portion of that amount from plaintiff's release account, they may first take from plaintiff's regular account whatever amount up to the full amount plaintiff owes.

Plaintiff is reminded that this is just the first step in obtaining leave to proceed *in forma pauperis* under 28 U.S.C. § 1915. After he sends in the payment, the court will review his complaint to decide whether to grant plaintiff leave to proceed on it. Leave will not be granted

if the action must be dismissed as malicious or legally “frivolous,” a term that means that the complaint does not allege a claim of any kind. Leave can be denied also if the complaint does not state a claim on which plaintiff could obtain relief under the law or if plaintiff is asking for money from a defendant who is legally protected from having to pay money in his case. Plaintiff should show a copy of this order to institution officials to make sure they know they should send plaintiff’s partial filing fee to this court.

ORDER

IT IS ORDERED that plaintiff is assessed \$5.50 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 \$5.50 on or before December 18, 2009. If, by December 18, 2009, plaintiff 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 plaintiff’s filing his case at a later date.

Entered this 30th day of November, 2009.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge