

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

BENJAMIN WALKER,

Petitioner,

v.

PETER HUIBREGTSE,

Respondent.

ORDER

10-cv-692-bbc

Petitioner Benjamin Walker, 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 balances for the six-month period immediately preceding the filing of his habeas corpus petition. 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 at least a portion of the the filing fee. According to the trust account statement, in the past six months petitioner's average monthly deposits have been \$2.20. (His average monthly balance in his regular account appears to be less than this amount.) Twenty percent of this figure is \$0.44. Accordingly, I will grant petitioner's application for leave to proceed *in forma pauperis* on the condition that he prepay \$0.44.

ORDER

IT IS ORDERED that the petition of Benjamin Walker for leave to proceed *in forma pauperis* is GRANTED on the condition that he prepay the amount of \$0.44. Petitioner has until December 1, 2010 to pay this amount. If he fails to submit the partial filing fee by December 1, 2010, his petition may be dismissed for failure to prosecute it.

Entered this 12th day of November, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge