

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

HUMBERTO LAGAR,

Plaintiff,

v.

RICK RAEMISCH, ALFONSO J. GRAHAM,
DANIELLE LaCOST, STEVEN LANDREMAN and
RANDALL R. HEPP,

Defendants.

ORDER

10-cv-836-wmc

In response to this court's December 30, 2010 order, plaintiff has submitted a certified copy of his six-month trust fund account statement so that I can determine whether he qualifies for indigent status and, if he does, calculate an initial partial payment of the \$350 fee for filing this case. In determining whether a prisoner litigant qualifies for indigent status this court applies the formula set forth in 28 U.S.C. § 1915(b)(1). According to this formula, a prisoner requesting leave to proceed *in forma pauperis* must prepay 20% of the greater of the average monthly balance or the average monthly deposits made to his prison account in the six-month period immediately preceding the filing of the complaint.

In this case, 20% of the average monthly deposits made to plaintiff's account is \$9.53, but 20% of the average monthly balance in his account is \$59.04. Because the greater of the two amounts is 20% of the average monthly balance, or \$59.04, that is the amount plaintiff will be assessed as an initial partial payment of the filing fee. However, because this court has received two money orders from Lazara Lagar in the amount of \$84.00 to be applied towards this case, plaintiff's complaint will be taken under advisement for screening pursuant to 28 U.S.C. § 1915(e)(2) to determine whether the case must be dismissed either because the

complaint is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief. Plaintiff should be aware that he is obligated to pay the unpaid balance of \$266.00 in monthly installments in accordance with 28 U.S.C. § 1915(b)(2). even if this court determines that the case must be dismissed.

ORDER

IT IS ORDERED that plaintiff Humberto Lagar's complaint is taken under advisement. As soon as the court's calendar permits, plaintiff's complaint will be screened pursuant to 28 U.S.C. § 1915(e)(2) to determine whether the case must be dismissed either because the complaint is frivolous or malicious, fails to state a claim on which relief may be granted or seeks monetary relief against a defendant who is immune from such relief. Plaintiff will be notified promptly when such a decision has been made.

Further, the Clerk of Court is requested to insure that the court's financial records reflect that plaintiff Lagar owes the \$350 fee for filing this case, in accordance with the requirements of the Prison Litigation Reform Act.

Entered this 12th day of January, 2011.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge