

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

DONNA DAWN KONITZER aka S.A. Konitzer,

Plaintiff,

v.

ORDER

12-cv-874-bbc

SINAI SAMARITAN MEDICAL CENTER,
SECRETARY OF DEPARTMENT OF CORRECTIONS,
GREG GRAMS, TIMOTHY DOUMA,
JANEL NICKEL, DALIA SULIENE,
TIMOTHY LUNDQUIST, KEVIN KALLAS,
DAVID BURNETT, JAMES GREER,
DANIEL WESTFIELD, J.B. VAN HOLLEN,
COREY FINKELMEYER, JODY SCHMELZER,
FRANCIS SULLIVAN, LILLIAN TENEBRUSCO and
LORI ALSUM,

Defendants.

Plaintiff Donna Dawn Konitzer¹ a/k/a S.A. Konitzer, a prisoner at the Columbia Correctional Institution in Portage, Wisconsin has submitted a proposed complaint under 42 U.S.C. § 1983. She asks for leave to proceed *in forma pauperis*. Because plaintiff is a prisoner, she is subject to the 1996 Prisoner Litigation Reform Act. This means that before this court may decide whether she can proceed with her complaint *in forma pauperis*, plaintiff will have to make an initial partial payment of the filing fee.

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.

¹At Konitzer's request in another case in this court, I will refer to her using female pronouns.

In this case, 20% of the average monthly deposits made to her account is \$8.39, but 20% of the average monthly balance in her account is \$43.37. Because the greater of the two amounts is 20% of the average monthly balance, or \$43.37, that is the amount plaintiff will be assessed as an initial partial payment of the filing fee. If plaintiff does not have the money to make the initial partial payment in her regular account, she will have to arrange with prison authorities to pay some or all of the assessment from her release account. This does not mean that plaintiff is free to ask prison authorities to pay *all* of her filing fee from his release account. The only amount plaintiff must pay at this time is the \$43.37 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 should show a copy of this order to prison officials to insure that they are aware they should send plaintiff's initial partial payment to this court.

ORDER

IT IS ORDERED that plaintiff Donna Konitzer is assessed \$43.37 as an initial partial payment of the \$350 fee for filing this case. She is to submit a check or money order made payable to the clerk of court in the amount of \$43.37 on or before December 27, 2012. If, by December 27, 2012, plaintiff fails to make the initial partial payment or show cause for her failure to do so, she 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 her case at a later date.

Entered this 4th day of December, 2012.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge