

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

JAMES EDWARD GRANT,

Petitioner,

v.

SHELLY J. RUSCH,

Respondent.

ORDER

Case No. 14-cv-756-jdp

On November 25, 2014, I assessed petitioner James Grant a partial payment of the \$5 filing fee in the amount of \$2.59 and gave him until December 14, 2014, in which to make the payment. Now petitioner has filed motions to waive the initial partial filing fee. Although petitioner asserts that his lack of income precludes him from paying the assessed amount, I cannot find that he qualifies for a waiver of the partial filing fee.

This court uses one method for determining the indigent status of all institutionalized persons, even in cases like this one that fall outside of the Prison Litigation Reform Act. *See Longbehn v. United States*, 169 F.3d 1082 (7th Cir. 1999). In *Longbehn*, the court of appeals held that even in cases where the PLRA did not apply, a litigant has a legal responsibility to pay the filing and docketing fees to the extent feasible. Further, the court said, “putting 20% of one’s available balance (or average monthly income) towards this legal obligation is not an undue burden on filing a suit or taking an appeal.” *Id.*

The trust fund account statement petitioner submitted at the time he filed this case, shows that in the six-month period immediately preceding the filing of his petition, he had a monthly average of \$12.95 of deposits made to his account. I correctly calculated that 20% of this figure is \$2.59. Accordingly, petitioner’s request to waive the \$2.59 partial filing fee is

denied. However, I will allow petitioner an additional four weeks, until January 30, 2014 to submit the \$2.59 payment towards the filing fee in this case. Petitioner should show a copy of this order to prison officials to insure that they are aware they should send petitioner's initial partial payment to this court.

ORDER

IT IS ORDERED that petitioner James Edward Grant's motions to waive the initial partial filing fee (Dkts. ##7, 8) are DENIED. Petitioner may have until January 30, 2014, in which to submit a check or money order made payable to the clerk of court in the amount of \$2.59. If, by January 30, 2014, petitioner fails to make the partial payment or show cause for his failure to do so, the clerk of court is directed to close this case.

Entered this 29th day of December 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge