

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

ALLAN DEAN OWENS,

ORDER

Plaintiff,

15-cv-489-bbc

v.

GREGORY BALOW,

Defendant.

On March 27, 2017, I issued an opinion and order granting defendant Gregory Balow's motion for summary judgment and dismissing all of plaintiff Allan Dean Owens's claims in this case. Dkt. #79. The clerk of court entered judgment in favor of defendant, closed the case, dkt. #80, and later entered an order granting defendant's request for costs of \$1,710.57. On April 17, 2018, plaintiff filed a "motion to stay collection of costs," dkt. #98, seeking a court order directing the state prison to stop withdrawing money from his account for the costs owed defendant. I denied the motion, explaining that the prison was required to make payments on the judgment of costs under 28 U.S.C. § 1915(f)(2). Dkt. #100.

It has now come to the court's attention that the Wisconsin Department of Corrections has been making payments on the judgment of costs to the court directly, rather than to the defendant's counsel. This is not necessary. Going forward, the Department of Corrections should use its current procedures for collecting fees under § 1915(b)(2), but should forward any money collected for costs to defendant's counsel directly. That is, in any

month the amount in plaintiff's trust account exceeds \$10, the department should make a payment on the judgment of costs equal to 20 percent of plaintiff's preceding month's income. This shall be in addition to any deductions made to pay filings fees plaintiff might owe. The department shall forward money owed for filings fees to the court and money owed for costs to defendant's counsel. Because the amounts collected frequently will be small, the department need not issue monthly checks for a very small amount, but may choose to allow the fund for costs to accumulate for a period of time. In those months the department collects no money from plaintiff for costs, the department does not need to report monthly to defendant about collection efforts. The clerk of court will pay the amounts received previously from the department directly to defendant's counsel.

ORDER

IT IS ORDERED that

1. The Wisconsin Department of Corrections shall collect from plaintiff Allan Dean Owens's trust account the amount owed for costs in accordance with 28 U.S.C. § 1915(b)(2), and shall forward payments to counsel for defendant Gregory Balow:

Attorney Michael Modl
Axley Brynelson, LLP
Two East Mifflin Street, Ste. 200, P.O. Box 1767
Madison, WI 53701

2. The Clerk of the Court shall pay to Attorney Michael Modl the amounts already received for costs from the Department of Corrections, totaling \$55.72.

Entered this 14th day of June, 2018.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge