

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

MICHAEL L. WINSTON and
JEREMIAH FELTON,

Plaintiffs,

v.

WARDEN MICHAEL DITTMAN,
LINDSEY WALKER and JOHN DOES (1-10),

Defendants.

ORDER

Case No. 17-cv-714-jdp

Plaintiffs Michael L. Winston and Jeremiah Felton have filed a proposed civil complaint. Plaintiff Jeremiah Felton has neither paid the \$400 filing fee nor requested leave to proceed without prepayment of the filing fee. However, plaintiff Winston has filed a motion to waive prepayment of fees and/or costs. Dkt. 2. To the extent plaintiffs wish to proceed without prepaying the filing fee, they must each submit a certified copy of a trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the date of the complaint.

This court uses one method for determining indigency status for prisoner litigants set forth in 28 U.S.C. § 1915(b)(1). From a six-month trust fund account statement covering the period immediately preceding the filing of the complaint, the court calculates two amounts, 20% of a plaintiff's average monthly income and 20% of a plaintiff's average monthly balance. Whichever amount is greater is the amount the plaintiff will have to prepay toward the \$350 filing fee. The plaintiff will qualify for indigent status with respect to the remainder of the fee. (The *in forma pauperis* statute does not permit a court to entirely waive a plaintiff's obligation

to pay filing fees. All it does is allow a court to grant qualifying individuals leave to proceed without *prepaying* some or all of the filing fee.)

Plaintiffs may have until October 13, 2017 to each submit a certified trust fund account statement. If plaintiffs are found to be indigent, I will calculate an initial partial payment amount for each plaintiff that must be paid before the court can screen the merits of the complaint under 28 U.S.C. § 1915(e)(2). Thereafter, plaintiffs will be required to pay the balance of the filing fee in installments. If plaintiffs do not submit a six-month trust fund account statement, I will assume that they wish to withdraw this action voluntarily.

ORDER

IT IS ORDERED that:

1. Plaintiffs Michael L. Winston and Jeremiah Felton may have until October 13, 2017 to each submit a certified trust fund account statement for the period beginning approximately March 7, 2017 and ending approximately September 7, 2017.

If, by October 13, 2017, plaintiffs fails to respond to this order, I will assume that plaintiffs wish to withdraw this action voluntarily. In that event, the case will be closed without prejudice to plaintiffs filing the case at a later date.

Entered this 21st day of September, 2017.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge