

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

TERRANCE J. SHAW,

Plaintiff,

v.

MS. VASQUEZ AND LAURA FRAZIER,

Defendants.

ORDER

Case No. 17-cv-913-wmc

Plaintiff Terrance J. Shaw has filed a proposed civil complaint, but has neither paid the filing fee nor requested leave to proceed without prepayment. Instead, plaintiff has submitted a motion to pay the full \$400 filing fee from both his release account funds. Plaintiff's motion will be denied.

There is no federal law permitting this court to require state officials to submit the entire filing fee or other litigation costs by accessing a prisoner's release account funds. It is only when a prisoner's general account has insufficient funds to pay an initial partial filing fee payment that the Prisoner Litigation Reform Act ("PLRA") permits this court to order an institution to access a prisoner's release account funds to satisfy that payment. See *Carter v. Bennett*, 399 F. Supp. 2d 936, 936-37 (W.D. Wis. 2005). Therefore, if plaintiff wishes to proceed with this lawsuit, he must either pay the \$400 filing fee or submit a properly supported motion for leave to proceed without prepayment of the filing fee no later than December 27, 2017.

A motion for leave to proceed without prepayment of the filing fee must be accompanied by a certified copy of plaintiff's inmate trust fund account statement (or institutional equivalent) for the six-month period immediately preceding the date of the

complaint. 28 U.S.C. § 1915(a)(2). If I find that plaintiff is indigent, I will calculate an initial partial payment amount that must be paid before the court can screen the merits of the complaint under 28 U.S.C. § 1915(e)(2). Thereafter, plaintiff will be required to pay the balance of the filing fee in installments.

ORDER

IT IS ORDERED that

1. Plaintiff Terrance J. Shaw's motion for use of his release account funds to pay the entire filing fee in this case is denied.
2. Plaintiff may have until December 27, 2017 to submit the \$400 filing fee or a motion for leave to proceed without prepayment and a trust fund account statement for the period beginning approximately June 6, 2017 and ending approximately December 5, 2017. If, by December 27, 2017, plaintiff fails to respond to this order, I will assume that plaintiff wishes to withdraw this action voluntarily. In that event, the case will be closed without prejudice to plaintiff filing the case at a later date.

Entered this 5th day of December, 2017.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge

<u>Name or initials (for minor children only)</u>	<u>Relationship to You</u>	<u>Age</u>	<u>Amount of Support Provided per Month</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

II. Property or Assets: - If you are married, your answers must *include your spouse's property.*

1) Do you own a car?

Yes No

If "yes," list the car(s) below:

<u>Make and Model</u>	<u>Year</u>	<u>Approximate Current Value</u>
_____	_____	\$ _____
_____	_____	\$ _____

2) Do you own your home(s)? Yes No

If "Yes," state the approximate value(s). \$ _____

What is the amount of equity (assessed value of residence minus outstanding mortgage balance) in the home(s)? \$ _____

3) Do you have any cash or checking, savings, or other similar accounts?

Yes No

If "Yes," state the total of such sums. \$ _____

4) Do you own any other property of value, such as real estate, stocks, bonds, trusts, or individual retirement accounts (e.g., IRA, 401 k), artwork, or jewelry?

Yes No

If "Yes," describe the property and the approximate value(s).

III. Litigation History

For each federal lawsuit that you recall having filed, list as much of the following information that you remember about each case: The name of the case (that is, the plaintiffs and the defendants), the case number or year of filing, and the federal district in which you filed the case. Use more paper if needed.

Case Name (Plaintiffs and defendants)	Case number (or year of filing)	Federal district
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IV. Other Circumstances - Describe any other financial circumstance(s) that you would like the court to consider when reviewing this petition.

I, _____, declare that I am the plaintiff bringing this complaint. I declare that I am unable to prepay the full filing fee and that I am entitled to the relief sought in the complaint.

Date

Signature - Signed Under Penalty of Perjury