

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

JAMES OLIVEIRA

v.

A.T. WALL

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C.A. No. 11-024ML

MEMORANDUM AND ORDER

In this matter, Petitioner James Oliveira filed his Petition for Writ of Habeas Corpus on January 26, 2011. (Document No. 1). Petitioner did not submit the filing fee required under 28 U.S.C. § 1914(a), to file a habeas corpus petition. Instead, Petitioner noted that he “tried to send [the Court] the fees associated with this petition, but it was sent back to me for lack of funds in my account.”¹ (Document No. 4-2). Petitioner also included an In Forma Pauperis Affidavit and a copy of his prison trust statement.² The matter of Petitioner’s Motion to Proceed In Forma Pauperis (Document No. 4) has been referred to me for determination. 28 U.S.C. § 636(b)(1)(A); LR CV 72(a).

The filing fee for a habeas corpus case, such as this one, is \$5.00. See 28 U.S.C. § 1914(a). Petitioner’s Application To Proceed Without Prepayment of Fees and Affidavit indicates that he is employed at the A.C.I. and earns \$42.00 per month. Petitioner’s encumbered account carries a positive balance of \$500.00 while his unencumbered account has a more minimal (\$21.00) negative

¹ The Court reviewed the documents submitted and the docket in this case and there is no record of the Court receiving, and then rejecting, Petitioner’s filing fee. Accordingly, the Court presumes that the authorities at the A.C.I. prevented Petitioner from withdrawing the \$5.00 fee from his account.

² The prison trust account statement submitted by Petitioner is several months old. However, given the recent completion of the Affidavit and the information contained in the documents submitted by Petitioner, the Court has a sufficiently clear picture of Petitioner’s financial ability to pay the filing fee.

balance. Petitioner indicates that he will be able to pay the \$5.00 filing fee by March 15, 2011. In light of these facts, the Court DENIES Petitioner's Motion to Proceed In Forma Pauperis. (Document No. 4). Petitioner is ordered to pay the \$5.00 filing fee by March 30, 2011 or risk having this matter dismissed for nonpayment of the required filing fee.

SO ORDERED

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
February 8, 2011