

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**January 19, 2005**

Cornelia G. Clark  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 04-0851  
STATE OF WISCONSIN**

**Cir. Ct. No. 04CV000052**

**IN COURT OF APPEALS  
DISTRICT I**

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**STATE OF WISCONSIN EX REL. DAVID W. ORR,**

**PETITIONER-APPELLANT,**

**v.**

**JON E. LITSHER, DIEDRE MORGAN, AND  
M. JEANNE HUIBREGTSE,**

**RESPONDENTS-RESPONDENTS.**

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APPEAL from an order of the circuit court for Milwaukee County:  
FRANCIS T. WASIELEWSKI, Judge. *Affirmed.*

Before Wedemeyer, P.J., Fine and Kessler, JJ.

¶1 PER CURIAM. David W. Orr appeals from the order of the circuit court that dismissed his action because he did not comply with the requirements of the Prisoner Litigation Reform Act, 1997 Wis. Act 133. He argues that the circuit court erred when it dismissed his action and did not order the prison to deduct the

filing fee from his prison release account. Because we conclude that the circuit court properly dismissed his action, we affirm.

¶2 In January 2004, Orr filed a petition for a writ of habeas corpus to review a decision of the Wisconsin Parole Commission. Orr was a prisoner at Racine Correctional Institution (RCI). Orr also filed a motion to compel RCI to deduct the circuit court's filing fee from his prison release account. The circuit court converted the case to a petition for a writ of certiorari under WIS. STAT. § 302.11(1g)(d). The court also notified Orr that he had until February 23, 2004, to pay the filing fee or to petition the court for waiver of the fee. The court gave Orr a list of the documents he needed to submit in support of his petition for a fee waiver. Orr did not submit the required documents by February 23, 2004, so the court dismissed his action. Over a month later, Orr submitted some, but not all, of the required documents.

¶3 Orr argues that the circuit court erred by not requiring RCI to deduct the filing fee from his prison release account. Orr misunderstands what happened in this case. The PLRA creates a scheme for deducting filing fees from prisoners' accounts. *See* WIS. STAT. § 814.29(1m). Generally, prison release accounts are not available to an inmate until his or her release. WIS. ADMIN. CODE § DOC 309.466(2). A prisoner may, however, access his release account to pay for these filing fees under the PLRA. *See State ex rel. Coleman v. Sullivan*, 229 Wis.2d 804, 809, 601 N.W.2d 335 (Ct. App. 1999). While these funds are available to pay the filing fees as required by the PLRA, they are only available if the court orders that they be released for this purpose. For this to occur, the inmate must file the appropriate paperwork under § 814.29(1m). Orr did not submit the appropriate paperwork within the deadline set by the court. The court, therefore, properly dismissed the action because he failed to comply with the

statutory requirements of the PLRA. Consequently, we affirm the order of the circuit court.

*By the Court.*—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

