

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Lawrence Giovanni Franklin, Jr. v. CO Guard Anthony et al.

Franklin · No. 25-cv-0906-bhl · Decided November 26, 2025

SUMMARY

The court denied Lawrence Giovanni Franklin, Jr.'s motion for an extension of time to pay an initial partial filing fee and to file an amended complaint. The court held that Franklin had not shown the exceptional circumstances required for relief under Federal Rule of Civil Procedure 60(b) from the prior dismissal of his 42 U.S.C. § 1983 action. The request to file an amended complaint was denied as moot because the case was closed.

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	November 26, 2025
DOCKET	25-cv-0906-bhl
DISPOSITION	dismissed
PROCEDURAL POSTURE	After dismissing Franklin's 42 U.S.C. § 1983 action without prejudice for failure to pay an initial partial filing fee, the court considered his request under Federal Rule of Civil Procedure 60(b) for additional time to pay the fee and his request to file an amended complaint.
STANDARD OF REVIEW	Relief under Rule 60(b) is extraordinary and requires exceptional circumstances.
PRECEDENTIAL VALUE	unpublished

TOPICS

- motion for reconsideration
- prisoners rights
- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

- civil procedure
- civil rights
- prisoners rights
- remedies

QUESTIONS PRESENTED

1. Whether Franklin established exceptional circumstances warranting relief from the dismissal under Federal Rule of Civil Procedure 60(b) and additional time to pay the initial partial filing fee.
2. Whether Franklin's request to file an amended complaint should be granted after the action had been dismissed and his request to vacate the judgment was denied.

HOLDINGS

1. Franklin was not entitled to vacate the dismissal or receive additional time to pay the initial partial filing fee because he failed to show exceptional circumstances causing his noncompliance.
2. Franklin's request to file an amended complaint was denied as moot because the action was closed and the court denied his request to vacate the judgment.

KEY QUOTATIONS

“Rule 60(b) provides for extraordinary relief and may be invoked only upon a showing of exceptional circumstances.”

FACTUAL BACKGROUND

Franklin, an incarcerated plaintiff proceeding pro se, was ordered to pay an initial partial filing fee of \$22.89 after filing a § 1983 action. He did not pay by the extended deadline and did not notify the court that he needed additional time, although he later attributed the delay to disciplinary segregation, delayed mail, and a blocked commissary account. Nearly two months after dismissal, he sought additional time to pay the fee and asked to pursue an amended complaint.

PROCEDURAL HISTORY

The court ordered Franklin to pay an initial partial filing fee of \$22.89 and later extended the deadline to September 17, 2025. When Franklin did not pay the fee or explain his noncompliance, the court dismissed the action without prejudice on September 24, 2025. Franklin subsequently sought additional time to pay the fee and requested amended complaint forms; the court denied relief and denied the amendment request as moot because the case remained closed.

DISPOSITION

dismissed

CASES CITED

- Peacock v. Board of School Comm'rs, 721 F.2d 210, 213 (7th Cir. 1983)

OPINION

EUANSITTEERDN S DTAISTTERS CDTIS OTFR WICITS CCOONUSRITN LAWRENCE GIOVANNI FRANKLIN, JR., Plaintiff, v. Case No. 25-cv-0906-bhl CO GUARD ANTHONY et

al., Defendants. DECISION AND ORDER Plaintiff Lawrence Giovanni Franklin, Jr., who is incarcerated at the Kenosha County Detention Center, is representing himself in this 42 U.S.C. §1983 action.

On July 17, 2025, the Court ordered Franklin to pay an initial partial filing fee of \$22.89 by August 18, 2025. A few days before the deadline, Franklin filed a motion for an extension of time to pay the fee. The Court granted the motion and warned him that, if the Court did not receive the fee by September 17, 2025, the Court would deny his motion to proceed without prepaying the filing fee and would dismiss this action without prejudice based on his failure to pay the filing fee.

The deadline passed, and Franklin did not pay the fee or inform the Court of why he was unable to do so and, on September 24, 2025, the Court dismissed this action without prejudice based on Franklin's failure to pay the filing fee. Nearly two months later, on November 17, 2025, Franklin filed a letter apologizing for failing to timely pay the fee. He explains that he has "been getting placed in and out of discipline segregation," has not been receiving his mail on time, and his commissary account is blocked.

He states that, if the Court extends his deadline to pay the fee, he will arrange to have someone drop off the payment or pay by phone. Dkt. No. 11. The Court will deny Franklin's motion. Under Fed. R. Civ. P. 60(b), a party may obtain neglect, newly discovered evidence, fraud, misrepresentation, or misconduct. "Rule 60(b) provides for extraordinary relief and may be invoked only upon a showing of exceptional circumstances." *Peacock v. Board of School Comm'rs*, 721 F.2d 210, 213 (7th Cir.

1983) (citations omitted). Although the Court understands that Franklin has experienced some challenges during his incarceration, those challenges are common to nearly all incarcerated individuals and are unlikely to have impacted Franklin's ability to arrange for the submission of the fee.

Moreover, Franklin does not explain why the challenges he identifies prevented him from, at a minimum, informing the Court that he needed more time to comply with the Court's order. Accordingly, because Franklin fails to show that his failure to comply with the Court's order was the result of exceptional circumstances, the Court will deny his request to vacate the judgment and give him more time to pay the fee.

Finally, in his letter, Franklin asks the Court to send him blank amended complaint forms. He also mailed a second letter detailing his claims. To the extent Franklin seeks to file an amended complaint, the Court will deny that motion as moot.

As noted, this case is closed, and the Court has denied Franklin's request to vacate the judgment. If Franklin wants to bring a new case, he may do so, but he will be required to pay a new filing fee

for that case. IT IS THEREFORE ORDERED that Franklin's motion for an extension of time to pay the initial partial filing fee and to file an amended complaint (Dkt.

No. 11) is DENIED. Dated at Milwaukee, Wisconsin on November 26, 2025. s/ Brett H. Ludwig
BRETT H. LUDWIG United States District Judge

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