

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Adam Elliott Sr. v. J. Russell Derr, Judge, in his Official Capacity

Elliott · No. 8:25CV731 · Decided January 21, 2026

SUMMARY

The United States District Court for the District of Nebraska grants Adam Elliott Sr.’s motion to proceed in forma pauperis. Because his account balance was \$0.00, the court suspends collection of the initial partial filing fee and directs collection of the full \$350.00 filing fee through monthly installments under the Prison Litigation Reform Act.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	Joseph F. Bataillon
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	January 21, 2026
DOCKET	8:25CV731
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to proceed in forma pauperis in a prisoner civil-rights action. The court granted the motion, suspended assessment of the initial partial filing fee because Plaintiff had no funds, and directed collection of the filing fee through monthly installments.
PRECEDENTIAL VALUE	unpublished
PARTIES	Adam Elliott Sr. v. J. Russell Derr, Judge, in his Official Capacity

TOPICS

- prisoners rights
- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

- Prisoner civil rights
- In forma pauperis proceedings
- Federal civil procedure

QUESTIONS PRESENTED

1. Whether Plaintiff should be permitted to proceed in forma pauperis despite having no funds to pay an initial partial filing fee.
2. How Plaintiff's filing fee must be collected under the Prison Litigation Reform Act when he cannot pay the initial partial fee.

HOLDINGS

1. A prisoner with no assets or means to pay the initial partial filing fee may proceed in forma pauperis; the initial partial fee requirement is suspended when the prisoner lacks funds.
2. The full \$350.00 filing fee must be collected through monthly installment payments, with the agency having custody of the prisoner forwarding 20 percent of the preceding month's income in months when the account exceeds \$10.00.

KEY QUOTATIONS

"[T]he PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal." (at 1)

"In no event shall a prisoner be prohibited from bringing a civil action . . . for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee." (at 1)

"the whole of the . . . filing fees are to be collected and paid by the installment method contained in § 1915(b)(2)." (at 1)

FACTUAL BACKGROUND

Plaintiff is a prisoner who filed a civil action and sought leave to proceed in forma pauperis. The court received a certified trust-account statement showing that Plaintiff's account balance was \$0.00, preventing assessment of an initial partial filing fee. The court therefore authorized installment collection of the statutory filing fee and deferred initial review of the claims.

PROCEDURAL HISTORY

Plaintiff filed this action and moved to proceed in forma pauperis. After receiving a certified copy of Plaintiff's trust account statement showing a \$0.00 balance, the court granted IFP status and ordered installment collection under the Prison Litigation Reform Act. The court stated that it would next conduct an initial review of Plaintiff's claims under 28 U.S.C. § 1915(e)(2).

DISPOSITION

other

CASES CITED

- In re Tyler, 110 F.3d 528, 529-30 (8th Cir. 1997)
- Jackson v. N.P. Dodge Realty Co., 173 F. Supp. 2d 951, 957 n. 9 (D. Neb. 2001)

- Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997)

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