

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH
DAKOTA, SOUTHERN DIVISION

Malik Sanders v. Resurgent/LVNV Funding

Sanders · No. 4:26-CV-04028-ECS · Decided April 2, 2026

SUMMARY

The United States District Court for the District of South Dakota grants Malik Sanders’s motion to proceed in forma pauperis in his pro se Fair Debt Collection Practices Act lawsuit against Resurgent/LVNV Funding. The court states that it will separately screen the complaint under 28 U.S.C. § 1915(e)(2)(B).

CASE DETAILS

COURT	United States District Court for the District of South Dakota, Southern Division
WRITING FOR THE COURT	Eric C. Schulte
JURISDICTION	United States District Court for the District of South Dakota, Southern Division
DECIDED	April 2, 2026
DOCKET	4:26-CV-04028-ECS
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a pro se Fair Debt Collection Practices Act lawsuit and moved for leave to proceed in forma pauperis.
STANDARD OF REVIEW	The determination whether an applicant is sufficiently impoverished to proceed in forma pauperis under 28 U.S.C. § 1915 is committed to the sound discretion of the district court.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Malik Sanders v. Resurgent/LVNV Funding

TOPICS

- civil procedure
- fair debt collection
- consumer protection

PRACTICE AREAS

- civil procedure
- fair debt collection
- consumer protection

QUESTIONS PRESENTED

1. Whether Sanders demonstrated sufficient financial inability to pay the filing fee to qualify for in forma pauperis status under 28 U.S.C. § 1915(a)(1).
2. Whether the complaint must be screened under 28 U.S.C. § 1915(e)(2)(B) after leave to proceed in forma pauperis is granted.

HOLDINGS

1. Sanders qualified to proceed in forma pauperis because his financial affidavit showed that he had insufficient funds to pay the filing fee.
2. When a plaintiff is granted leave to proceed in forma pauperis, the court must screen the complaint under 28 U.S.C. § 1915(e)(2)(B) for frivolousness or maliciousness, failure to state a claim, and claims seeking monetary relief from an immune defendant.

KEY QUOTATIONS

“in forma pauperis status does not require a litigant to demonstrate absolute destitution.”

“But in forma pauperis status is a privilege, not a right.”

FACTUAL BACKGROUND

Malik Sanders filed a pro se lawsuit under the Fair Debt Collection Practices Act against Resurgent/LVNV Funding. He submitted a motion for leave to proceed in forma pauperis and a financial affidavit. After reviewing the affidavit, the court found that Sanders had insufficient funds to pay the filing fee.

PROCEDURAL HISTORY

Sanders filed a federal FDCPA action and submitted a financial affidavit supporting his motion to proceed without prepaying the filing fee. The district court granted the motion after finding that he lacked sufficient funds to pay the filing fee. The court stated that it would conduct the required statutory screening of the complaint in a separate order.

DISPOSITION

other

CASES CITED

- Lee v. McDonald’s Corp., 231 F.3d 456, 459 (8th Cir. 2000)
- Williams v. McKenzie, 834 F.2d 152, 154 (8th Cir. 1987)
- Cross v. General Motors Corp., 721 F.2d 1152, 1157 (8th Cir. 1983)
- Martin-Trigona v. Stewart, 691 F.2d 856, 857 (8th Cir. 1982) (per curiam)
- Key v. Does, 217 F. Supp. 3d 1006, 1007 (E.D. Ark. 2016)

OPINION

Sanders

PER CURIAM.

UNITED STATES DISTRICT COURT

_ DISTRICT OF SOUTH DAKOTA

SOUTHERN DIVISION

MALIK SANDERS, 4:26-CV-04028-ECS

Plaintiff,

ORDER GRANTING PLAINTIFF'S

Vs. MOTION FOR LEAVE TO PROCEED

. IN FORMA PAUPERIS

RESURGENT/LVNV FUNDING,

Defendant. . Plaintiff, Malik Sanders, filed a pro se lawsuit under the Fair Debt Collection Practices Act. Doc. 1. Sanders moved for leave to proceed in forma pauperis. Doc. 2. A federal court may authorize the commencement of any lawsuit without prepayment of fees when an applicant submits an affidavit stating he or she is unable to pay the costs of the lawsuit. 28 U.S.C. § 1915(a)(1). “[I]n forma pauperis status does not require a litigant to demonstrate absolute destitution.” *Lee v. McDonald’s Corp.*, 231 F.3d 456, 459 (8th Cir. 2000). But in forma pauperis status is a privilege, not a right. *Williams v. McKenzie*, 834 F.2d 152, 154 (8th Cir. 1987) (citation omitted). Determining whether an applicant is sufficiently impoverished to qualify to proceed in forma pauperis under § 1915 is committed to the sound discretion of the district court. *Cross vy. Gen. Motors Corp.*, 721 F.2d 1152, 1157 (8th Cir. 1983). After review of Sanders’ financial affidavit, this Court finds that he has insufficient funds to pay the filing fee. Thus, Sanders’ motion for leave to proceed in forma pauperis, Doc. 2, is granted. When a plaintiff is granted leave to proceed in forma pauperis, a court must screen the complaint to determine whether should be dismissed under 28 U.S.C. § 1915(e)(2)(B). See □ *Martin-Trigona v. Stewart*, 691 F.2d 856, 857 (8th Cir. 1982) (per curiam); see also *Key v. Does*, 217 F. Supp. 3d 1006, 1007 (ED. Ark. 2016). Thus, the next stage in the proceeding is for the Court to conduct a screening to determine if Sanders’ Complaint is “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). This Court will enter a separate order screening Sanders’ Complaint in due course. Thus, it is ORDERED that Sanders’ Motion for Leave to Proceed In Forma Pauperis, Doc. 2, is granted. DATED this 2nd day of April, 2026. BY THE COURT: Ss
CC, SCHULT -
UNITED STATES DISTRICT JUDGE