

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

David D. Ebben v. Ken Lobenstein, B. Muller, and L. Washetas

Ebben · No. 25-cv-247-wmc · Decided December 9, 2025

SUMMARY

The United States District Court for the Western District of Wisconsin dismissed David D. Ebben’s 42 U.S.C. § 1983 complaint without prejudice for failure to state a claim. The court held that the allegations did not sufficiently identify an actual injury or lost underlying claim supporting an access-to-courts claim, and that an official’s alleged failure to investigate a grievance was not independently actionable under § 1983. The court granted Ebben until January 9, 2026, to file an amended complaint.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	William M. Conley
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	December 9, 2025
DOCKET	25-cv-247-wmc
DISPOSITION	dismissed
PROCEDURAL POSTURE	Prisoner civil-rights action under 42 U.S.C. § 1983 screened under the Prison Litigation Reform Act. The court denied leave to proceed and dismissed the complaint without prejudice for failure to state a claim, while allowing plaintiff an opportunity to amend.
STANDARD OF REVIEW	The court applied the screening standards under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b), accepting the pro se allegations generously, drawing reasonable inferences in plaintiff's favor, and determining whether the complaint plausibly stated a claim for relief.
PRECEDENTIAL VALUE	unpublished district court opinion
PARTIES	David D. Ebben v. Ken Lobenstein, B. Muller, L. Washetas

TOPICS

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

PRACTICE AREAS

prisoner civil rights

constitutional law

federal civil procedure

QUESTIONS PRESENTED

1. Whether Ebben plausibly alleged an access-to-the-courts claim against Lobenstein and Washetas under 42 U.S.C. § 1983.
2. Whether Muller's alleged failure to investigate or correct Ebben's grievance stated an actionable claim under § 1983.
3. Whether the complaint should be dismissed without prejudice with an opportunity to amend.

HOLDINGS

1. The complaint failed to state an access-to-the-courts claim because Ebben did not identify a specific nonfrivolous lawsuit or underlying claim that was lost or impeded, and he did not adequately connect defendants' conduct to an actual injury.
2. The allegation that Muller failed to investigate or correct the alleged wrongdoing did not state an actionable claim under § 1983.
3. The complaint was dismissed without prejudice for failure to state a claim, and Ebben was permitted to file an amended complaint addressing the identified deficiencies.

KEY QUOTATIONS

“To state a claim of denial of access to the courts, a plaintiff must allege that “he was, or is, suffering an ‘actual injury’ by being ‘frustrated’ or ‘impeded’ in bringing a non-frivolous claim regarding his criminal conviction, sentence or conditions of confinement.””

“Plaintiff’s allegation that defendant Muller failed to adequately investigate his grievances does not state an actionable claim under § 1983 because the Constitution does not require officials to investigate or otherwise correct wrongdoing after it has happened.”

FACTUAL BACKGROUND

Ebben was incarcerated at the New Lisbon Correctional Institution, where Lobenstein was a unit manager, Muller was an inmate complaint examiner, and Washetas worked in the business office. He alleged that Lobenstein refused a staff-assisted telephone call, Muller inadequately handled his grievance, and Washetas impeded his efforts to obtain a legal loan. Ebben claimed that denial of the legal loan contributed to the dismissal of several cases, but he did not identify any particular case or describe the underlying claims and parties.

PROCEDURAL HISTORY

Ebben filed a pro se complaint alleging that Wisconsin Department of Corrections employees interfered with his access to the courts and failed to investigate his grievance. Because he was incarcerated and proceeding without prepayment of the filing fee, the court screened the complaint under 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b).

The court found the allegations insufficient, dismissed the complaint without prejudice, denied leave to proceed, granted a deadline to amend, and denied a motion for a status report as moot.

DISPOSITION

dismissed

CASES CITED

- Arnett v. Webster, 658 F.3d 742, 751 (7th Cir. 2011)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 557 (2007)
- D.S. v. E. Porter Cnty. Sch. Corp., 799 F.3d 793, 798 (7th Cir. 2015)
- Buchanan–Moore v. Cnty. of Milwaukee, 570 F.3d 824, 827 (7th Cir. 2009)
- Haines v. Kerner, 404 U.S. 519, 521 (1972)
- DeBauche v. Wis. Dep’t of Corr., No. 17-cv-454-wmc, 2021 WL 2860983, at *3 (W.D. Wis. July 8, 2021)
- Lewis v. Casey, 518 U.S. 343, 353-55 (1996)
- Owens v. Evans, 878 F.3d 559, 565 (7th Cir. 2017)
- Marshall v. Knight, 445 F.3d 965, 969-70 (7th Cir. 2006)
- Ortiz v. Downey, 561 F.3d 664, 671 (7th Cir. 2009)
- Christopher v. Harbury, 536 U.S. 403, 416 (2002)
- Steidl v. Fermon, 494 F.3d 623, 633 (7th Cir. 2007)
- Whitlock v. Brueggemann, 682 F.3d 567, 588-89 (7th Cir. 2012)
- Strong v. David, 297 F.3d 646, 650 (7th Cir. 2002)

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