

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Nicholas Scott Werling v. Frances Pizano and Joseph Allen Bell

Werling · No. 24-cv-590-jdp · Decided May 20, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin grants Nicholas Scott Werling's motion for a hearing on damages following the defendants' default in his Fourth Amendment malicious prosecution claims. The court explains that Werling must prove compensable damages with reasonable certainty, may receive nominal damages if he cannot establish harm, and must satisfy the standard for punitive damages.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	James D. Peterson
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	May 20, 2026
DOCKET	24-cv-590-jdp
DISPOSITION	other
PROCEDURAL POSTURE	After the court entered default against both defendants in the plaintiff's Fourth Amendment malicious prosecution action, the plaintiff moved for a default judgment and a damages hearing.
STANDARD OF REVIEW	A plaintiff seeking relief after default must establish entitlement to the relief sought and prove damages with reasonable certainty; damages cannot be based on speculation.
PRECEDENTIAL VALUE	Unpublished district court order; generally nonprecedential.
PARTIES	Nicholas Scott Werling v. Frances Pizano, Joseph Allen Bell

TOPICS

- default judgment
- damages
- section 1983
- civil procedure
- civil rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the plaintiff was entitled to an evidentiary hearing to establish damages after the defendants' default established liability.
2. What evidentiary showing is required to establish compensatory damages after default.
3. What showing is required to recover punitive damages for the defendants' conduct.

HOLDINGS

1. The plaintiff is entitled to proceed to a hearing on damages because his submission was sufficient to warrant an opportunity to present evidence, although he must still prove his entitlement to the relief requested.
2. The plaintiff must establish compensable losses and the amount of those losses with reasonable certainty; if he cannot prove compensable harm, the court will award nominal damages of \$1.
3. To recover punitive damages, Werling must show that the defendants acted with ill will or spite, or in reckless disregard of his rights.

KEY QUOTATIONS

“after the default is established, and thus liability, the plaintiff still must establish his entitlement to the relief he seeks.” (at 1)

“At that hearing, Werling must present evidence that establishes his damages with reasonable certainty.” (at 2)

“If Werling cannot prove any compensable harm, he will receive nominal damages of \$1.” (at 2)

“To recover punitive damages against defendants, Werling will have to show that they acted with “ill will or spite” or in “reckless disregard” of his rights.” (at 2)

FACTUAL BACKGROUND

Werling alleges that, while he was a minor in a shelter care facility, another minor assaulted him and the minor and facility staff lied to police, causing Werling to be prosecuted for physical abuse of a child. He sought compensatory damages for pretrial custody, lost wages, defense fees, lost opportunities, and emotional distress, as well as punitive damages. The court noted that Werling was also prosecuted and convicted in other cases, including a more serious felony involving firearm possession, creating uncertainty about whether the challenged prosecution caused the claimed additional custody and other losses.

PROCEDURAL HISTORY

The court previously granted Werling leave to proceed on Fourth Amendment malicious prosecution claims against staff members who allegedly lied to police. The clerk entered default against Pizano and Bell. The court directed Werling to provide further support for his requested compensatory and punitive damages. Werling filed

an amended motion for default judgment and moved for a hearing. The court granted the motion for a default hearing and directed that an in-person hearing be scheduled.

DISPOSITION

other

CASES CITED

- VLM Food Trading Int'l, Inc. v. Illinois Trading Co., 811 F.3d 247, 255 (7th Cir. 2016)
- e360 Insight v. Spamhaus Project, 500 F.3d 594, 602 (7th Cir. 2007)

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