

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY

Omar Tunstall v. Sgt. Higgins, et al.

Tunstall · No. Civil Action No. 26-340 (BRM) (JBC) · Decided January 15, 2026

SUMMARY

The United States District Court for the District of New Jersey denied without prejudice Omar Tunstall’s application to proceed in forma pauperis because he failed to submit a certified six-month prison account statement. The court administratively terminated the action without filing the complaint or assessing a filing fee and allowed Plaintiff 30 days to reopen the case by submitting a complete application or paying the required fees.

CASE DETAILS

COURT	United States District Court for the District of New Jersey
WRITING FOR THE COURT	Brian R. Martinotti
JURISDICTION	United States District Court for the District of New Jersey
DECIDED	January 15, 2026
DOCKET	Civil Action No. 26-340 (BRM) (JBC)
DISPOSITION	other
PROCEDURAL POSTURE	A pro se state prisoner filed a proposed 42 U.S.C. § 1983 civil-rights action and an application to proceed in forma pauperis. The court denied the incomplete in forma pauperis application without prejudice and administratively terminated the case without filing the complaint or assessing a filing fee.
PRECEDENTIAL VALUE	Unpublished memorandum and order; precedential status is unknown from the opinion.
PARTIES	Omar Tunstall v. Sgt. Higgins, et al.

TOPICS

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

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- in forma pauperis proceedings

QUESTIONS PRESENTED

1. Whether Plaintiff satisfied the statutory requirements for proceeding in forma pauperis under 28 U.S.C. § 1915(a).
2. Whether the court should administratively terminate the action when the prisoner failed to submit a complete in forma pauperis application.

HOLDINGS

1. A prisoner seeking to proceed in forma pauperis must submit a complete affidavit of inability to pay and a certified copy of the inmate trust-account statement for the six-month period preceding the application; Plaintiff's failure to submit the certified six-month statement required denial of his application without prejudice.
2. When a prisoner fails to submit a complete in forma pauperis application or pay the required filing and administrative fees, the court may administratively terminate the action without filing the complaint or assessing a filing fee, while allowing reopening upon timely correction of the deficiency.

KEY QUOTATIONS

“The Court must dismiss the case if it finds that the action is: (1) frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief.”

“Plaintiff is informed that administrative termination is not a “dismissal” for purposes of the statute of limitations, and that if the case is reopened, it is not subject to the statute of limitations time bar if it was originally filed timely”

FACTUAL BACKGROUND

Omar Tunstall is a state prisoner confined at South Woods State Prison in Bridgeton, New Jersey. He sought to bring a civil-rights action under 42 U.S.C. § 1983 without prepaying the filing fee, but his application did not include the required certified six-month inmate trust-account statement from an appropriate prison official.

PROCEDURAL HISTORY

Plaintiff submitted a civil-rights complaint and an in forma pauperis application. Because he failed to provide a certified six-month prison account statement signed by an appropriate prison official, the court denied the application without prejudice and administratively terminated the action, while permitting reopening upon submission of a complete application or payment of the required fees within thirty days.

DISPOSITION

other

CASES CITED

- Jenkins v. Superintendent of Laurel Highlands, 705 F.3d 80, 84 n.2 (3d Cir. 2013)

- Dasilva v. Heriff's Dep't, 413 F. App'x 498, 502 (3d Cir. 2011)

OPINION

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY OMAR TUNSTALL,:: Civil Action No. 26-340 (BRM) (JBC) Plaintiff,; v.: MEMORANDUM AND ORDER SGT. HIGGINS, et al.,: Defendants.: THIS MATTER is opened to the Court by pro se Plaintiff Omar Tunstall ("Plaintiff"), a state prisoner currently confined at South Woods State Prison in Bridgeton, New Jersey, upon the filing of a civil rights action pursuant to 42 U.S.C. § 1983 and an application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(a)(1).

(ECF Nos. 1, 1-1, and 1-2.) The Prison Litigation Reform Act of 1995 (the "Act"), which amends 28 U.S.C. § 1915, establishes certain financial requirements for prisoners who are attempting to bring a civil action in forma pauperis.

Under the Act, a prisoner bringing a civil action in forma pauperis must submit an affidavit, including a statement of all assets, which states that the prisoner is unable to pay the fee. 28 U.S.C. § 1915(a)(1). The prisoner also must submit a certified copy of his inmate trust fund account statement for the six-month period immediately preceding the filing of his complaint.

28 U.S.C. § 1915(a)(2). The prisoner must obtain this statement from the appropriate official of each prison at which he was or is confined. *Id.* The entire fee to be paid in advance of filing a civil complaint is \$405. That fee includes a filing fee of \$350 plus an administrative fee of \$55, for a total of \$405. A prisoner who is granted in forma pauperis status will, instead, be assessed a filing fee of \$350 and will not be responsible for the \$55 administrative fee.

If in forma pauperis status is denied, the prisoner must pay the full \$405, including the \$350 filing fee and the \$55 administrative fee, before the complaint will be filed. If the prisoner is granted in forma pauperis status, the prisoner must pay the full amount of the \$350 filing fee as follows. 28 U.S.C. § 1915(b)(1).

In each month that the amount in the prisoner's account exceeds \$10.00, until the \$350.00 filing fee is paid, the agency having custody of the prisoner shall assess, deduct from the prisoner's account, and forward to the Clerk of the Court, payment equal to 20% of the preceding month's income credited to the prisoner's account. 28 U.S.C. § 1915(b)(2).

In other words, Plaintiff must pay the entire filing fee even if he is granted leave to proceed in forma pauperis and even if the case is dismissed before the entire fee has been paid. The Court must dismiss the case if it finds that the action is: (1) frivolous or malicious; (2) fails to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief.

28 U.S.C. § 1915(e)(2)(B). If the Court dismisses the case for any of these reasons, the Act does not permit the prisoner to get his filing fee back. In this action, Plaintiff failed to submit a complete in forma pauperis application as required by 28 U.S.C. § 1915(a). Specifically, he has failed to provide a certified six-month account statement signed by an appropriate prison official.

Plaintiff must submit an account statement for the entire six months proceeding his application, and if he was incarcerated at another prison, he must include a certified statement from that prison. Accordingly, and for good cause appearing, IT IS on this 15th day of January 2026, ORDERED Plaintiff's request to proceed in forma pauperis (ECF No. 1-1) is DENIED WITHOUT PREJUDICE; and it is further ORDERED the Clerk of the Court shall ADMINISTRATIVELY TERMINATE this case, without filing the complaint or assessing a filing fee; Plaintiff is informed that administrative termination is not a "dismissal" for purposes of the statute of limitations, and that if the case is reopened, it is not subject to the statute of limitations time bar if it was originally filed timely, see *Jenkins v. Superintendent of Laurel Highlands*, 705 F.3d 80, 84 n.2 (3d Cir.

2013) (describing prisoner mailbox rule generally); *Dasilva v. Heriff's Dep't*, 413 F. App'x 498, 502 (3d Cir. 2011) ("[The] statute of limitations is met when a complaint is submitted to the clerk before the statute runs...."); and it is further ORDERED the Clerk of the Court shall send Plaintiff the form entitled Affidavit of Poverty and Account Certification (Civil Rights) (DNJ -ProSe-007-A(Rev.

12/2023)) to be used by Plaintiff in any future application to proceed in forma pauperis; and it is further ORDERED if Plaintiff wishes to reopen this case, he shall so notify the Court, in writing addressed to the Clerk of the Court, Martin Luther King Building & U.S. Courthouse, 50 Walnut Street, Newark, NJ 07101, within thirty (30) days of the date of entry of this Order; Plaintiff's writing shall include either (1) a complete, signed in forma pauperis application, including a certified prison account statement for the six months immediately preceding the filing of the Complaint, or (2) the \$405 fee including the \$350 filing fee plus the \$55 administrative fee; and it is further ORDERED upon receipt of a writing from Plaintiff stating that he wishes to reopen this case, and either a complete in forma pauperis application or payment of the filing and administrative fees within the time allotted by this Court, the Clerk of the Court will be directed to reopen this case; and it is finally ORDERED the Clerk of the Court shall serve a copy of this Order upon Plaintiff by regular U.S. mail. /s/Brian R. Martinotti HON. BRIAN R. MARTINOTTI UNITED STATES DISTRICT JUDGE