

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Matthew R. Kutz v. Kevin Garceau, et al.

No. 25-cv-975-wmc, United States District Court for the Western District of Wisconsin (December 10, 2025)

SUMMARY

The United States District Court for the Western District of Wisconsin assesses plaintiff Matthew R. Kutz an initial partial filing-fee payment of \$1.38 under 28 U.S.C. § 1915(b)(1). The court requires payment or a written explanation by January 7, 2026, and states that the action will not proceed until payment and statutory screening are completed. Failure to pay or show cause may result in dismissal without prejudice.

CASE DETAILS

COURT	United States District Court for the Western District of Wisconsin
WRITING FOR THE COURT	Andrew R. Wiseman
JURISDICTION	United States District Court for the Western District of Wisconsin
DECIDED	December 10, 2025
DOCKET	25-cv-975-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff submitted a certified inmate trust fund account statement in support of a motion for leave to proceed without prepaying the filing fee. The court issued an order assessing an initial partial filing-fee payment and directing plaintiff to pay or show cause for nonpayment before the action could proceed.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order

TOPICS

- prisoners rights
- civil procedure
- civil rights

PRACTICE AREAS

- civil procedure
- prisoner civil rights

QUESTIONS PRESENTED

1. Whether the incarcerated plaintiff must make an initial partial filing-fee payment under 28 U.S.C. § 1915(b)(1).
2. What consequence should follow if plaintiff fails to make the initial partial payment or show cause for nonpayment.

HOLDINGS

1. A prisoner litigant who qualifies for indigent status must pay an initial partial filing fee pursuant to 28 U.S.C. § 1915(b)(1), and plaintiff's initial partial payment was assessed at \$1.38.
2. If plaintiff fails to pay the \$1.38 initial partial payment by January 7, 2026, or fails to show cause for nonpayment, the court will treat the failure as an indication that plaintiff wishes to withdraw the action and dismiss the case without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i).
3. If the action is dismissed for failure to make the initial partial payment, it may be reopened if plaintiff submits the payment within 30 days; after that period, reopening requires a showing of entitlement to relief under Federal Rule of Civil Procedure 60(b).

FACTUAL BACKGROUND

Matthew R. Kutz is an incarcerated plaintiff seeking to proceed without prepaying the filing fee. His certified inmate trust fund account statement showed sufficient information for the court to calculate an initial partial payment of \$1.38. The court directed him to pay that amount by January 7, 2026, or explain why he could not do so.

PROCEDURAL HISTORY

The action was filed in the United States District Court for the Western District of Wisconsin. After plaintiff submitted his inmate trust fund account statement, the court calculated an initial partial payment of \$1.38, stayed further action pending payment and screening, and warned that failure to pay or show cause would result in voluntary dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Carter v. Bennett, 399 F. Supp. 2d 936, 937 (W.D. Wis. 2005)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN MATTHEW R. KUTZ, Plaintiff, ORDER v. Case No. 25-cv-975-wmc KEVIN GARCEAU, et al. Defendants. Plaintiff Matthew R. Kutz has submitted a certified inmate trust fund account statement in support of a motion for leave to proceed without prepaying the filing fee.

The court must now determine whether plaintiff qualifies for indigent status and, if so, calculate an initial partial payment of the filing fee. Even when a prisoner litigant qualifies for indigent status, the litigant must pay a portion of the filing fee pursuant to 28 U.S.C. § 1915(b)(1). Using information from plaintiff's trust fund account statement, I have calculated plaintiff's initial partial payment to be \$1.38.

For this case to proceed, plaintiff must submit this amount on or before January 7, 2026. If plaintiff does not have sufficient funds in a regular inmate account to make the initial partial payment, then plaintiff should arrange with prison officials to make the payment from a release account.

However, prison officials will draw funds first from plaintiff's regular account and any portion of the initial partial payment remaining from plaintiff's release account. *Carter v. Bennett*, 399 F. Supp. 2d 936, 937 (W.D. Wis. 2005). ORDER IT IS ORDERED that: 1. Plaintiff Matthew R. Kutz is assessed an initial partial payment of \$1.38. Plaintiff must submit a check or money order payable to the clerk of court by January 7, 2026 or advise the court in writing why plaintiff is not able to make the initial partial payment.

2. No further action will be taken in this case until the clerk's office receives the initial partial payment as directed above and the court has screened the complaint as required by the Prison Litigation Reform Act, 28 U.S.C. § 1915(e)(2). Once the screening process is complete, the court will issue a separate order. 2. If plaintiff fails to make the initial partial payment by January 7, 2026, or fails to show cause why the payment could not be made, then I will assume that plaintiff wishes to withdraw this action voluntarily.

In that event, the case will be dismissed without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i). If plaintiff submits the initial partial payment within 30 days of dismissal, the case will be reopened.

The court will not reopen the case after 30 days unless plaintiff makes a showing that they are entitled to relief under Federal Rule of Civil Procedure 60(b). Entered this 10th day of December, 2025. BY THE COURT: /s/ ANDREW R. WISEMAN United States Magistrate Judge