

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
WISCONSIN

Dizzy Dean Wells, Jr. v. Nurse Tyson et al.

Wells · No. 25-cv-1963-bhl · Decided February 4, 2026

SUMMARY

The United States District Court for the Eastern District of Wisconsin denied Dizzy Dean Wells, Jr.'s motion under Federal Rule of Civil Procedure 59(e) to alter or amend the judgment. The court also denied his alternative request to extend the deadline for paying the filing fee, concluding that he had not shown newly discovered evidence, manifest error, or good cause and remained subject to the restrictions of 28 U.S.C. § 1915(g).

CASE DETAILS

COURT	United States District Court for the Eastern District of Wisconsin
WRITING FOR THE COURT	Brett H. Ludwig
JURISDICTION	United States District Court for the Eastern District of Wisconsin
DECIDED	February 4, 2026
DOCKET	25-cv-1963-bhl
DISPOSITION	other
PROCEDURAL POSTURE	After the court denied Plaintiff's motion to proceed in forma pauperis under 28 U.S.C. § 1915(g) and dismissed the action for failure to pay the filing fee, Plaintiff moved under Federal Rule of Civil Procedure 59(e) to alter or amend the judgment, or alternatively to extend the deadline for paying the filing fee.
STANDARD OF REVIEW	A Rule 59(e) motion may be granted only when the movant clearly establishes newly discovered evidence or a manifest error of law or fact warranting relief. A request for an extension of time is evaluated for good cause.
PRECEDENTIAL VALUE	Unknown

TOPICS

- motion for reconsideration
- prisoners rights
- civil procedure
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Wells was entitled to alter or amend the dismissal under Federal Rule of Civil Procedure 59(e).
2. Whether the court could relieve Wells from the consequences of the three-strikes provision in 28 U.S.C. § 1915(g).
3. Whether Wells had shown good cause for an extension of the deadline to pay the filing fee until after his anticipated release.

HOLDINGS

1. Wells was not entitled to alter or amend the judgment because he did not clearly establish newly discovered evidence or a manifest error of law or fact.
2. The court lacked authority to relieve Wells from the consequences of the three-strikes provision in 28 U.S.C. § 1915(g).
3. Wells was not entitled to an extension of the deadline until after his release because he failed to show good cause for such a lengthy extension.

KEY QUOTATIONS

“A Rule 59(e) motion may be granted only if a party can “clearly establish” either newly discovered evidence or a manifest error of law or fact warranting relief.”

“The Court does not have the authority to relieve Wells of the consequences imposed by this provision.”

FACTUAL BACKGROUND

Wells, who is confined at Waupun Correctional Institution and proceeding pro se in a § 1983 action, stated that he could not afford the filing fee. The court found that he had at least three prior lawsuits dismissed for failure to state a claim and that his complaint did not support a reasonable inference of imminent danger. After Wells failed to pay the required fee by the deadline, the action was dismissed.

PROCEDURAL HISTORY

The court previously determined that Wells had accumulated at least three qualifying dismissals and had not alleged facts showing that he was in imminent danger of serious physical injury. It denied in forma pauperis status and ordered payment of the full filing fee. When Wells failed to pay by the deadline, the court dismissed the action. Wells then filed the present Rule 59(e) motion and alternative request for an extension, both of which were denied.

DISPOSITION

other

CASES CITED

- Harrington v. City of Chicago, 433 F.3d 542, 546 (7th Cir. 2006)
- Oto v. Metropolitan Life Ins. Co., 224 F.2d 601, 606 (7th Cir. 2000)

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WISCONSIN

DIZZY DEAN WELLS, JR., Plaintiff, v. Case No. 25-cv-1963-bhl NURSE TYSON et al.,
Defendants.

DECISION

AND

ORDER

Plaintiff Dizzy Dean Wells, Jr., who is confined at the Waupun Correctional Institution, is representing himself in this 42 U.S.C. §1983 action.

On December 18, 2025, the Court denied Wells’ motion to proceed in forma pauperis after it found that Wells had filed at least three lawsuits that were dismissed for failure to state a claim and concluded that the allegations in the complaint did not give rise to a reasonable inference that Wells was in imminent danger of serious physical injury. See Dkt. No. 4 (citing 28 U.S.C. §1915(g)).

The Court ordered Wells to pay the full \$405 civil case filing fee by January 8, 2026. Wells did not pay the filing fee by the deadline, so the Court dismissed this action based on his failure to pay the filing fee. Dkt. No. 8.

On January 27, 2026, Wells filed a motion to alter or amend the judgment under Fed. R. Civ. P. 59(e). Alternatively, he asks the Court to extend his deadline to pay the \$605 filing fee until after his release in 2030. He explains that he has no way to pay the filing fee; he cannot even afford to purchase basic hygiene supplies. He acknowledges that he will not be allowed to proceed in forma pauperis on appeal because he has “struck out” under §1915(g).

The Court will deny Wells’ motion. Under Federal Rule of Civil Procedure 59(e), a party may move to alter or amend a judgment within 28 days of the entry of judgment. A Rule 59(e) motion may be granted only if a party can “clearly establish” either newly discovered evidence or a manifest error of law or fact warranting relief. *Harrington v. City of Chicago*, 433 F.3d 542, 546 (7th Cir.

2006) (citations omitted). A “manifest error of law” “is not demonstrated by the disappointment of the losing party. It is the ‘wholesale disregard, misapplication, or failure to recognize controlling precedent.’” *Oto v. Metropolitan Life Ins. Co.*, 224 F.2d 601, 606 (7th Cir. 2000). Wells has not

clearly established that he has newly discovered evidence or that the Court committed a manifest error of law.

Indeed, he acknowledges that he has “struck out” under §1915(g). The Court does not have the authority to relieve Wells of the consequences imposed by this provision. The Court will also deny Wells’ request that it extend his deadline to pay the \$605 appellate filing fee until after his release in 2030. Wells has not shown good cause to justify such a lengthy extension.

Again, he bears the consequence of having previously filed at least three cases that were dismissed for failure to state a claim. IT IS THEREFORE ORDERED that Wells’ motion to alter or amend the judgment or, alternatively, for an extension of time (Dkt. No. 10) is DENIED. Dated at Milwaukee, Wisconsin on February 4, 2026. s/ Brett H. Ludwig BRETT H. LUDWIG United States District Judge