

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Alfonzo Wells, Jr. v. Lucas Winker, Sgt. Heiser, Devin Anderson, J. Underly, Michael Polasky, Journal Times, Lee Enterprise Newspaper, Sgt. Neighbors, Mike Boyd, Raymond Robert Rutz, III, Kurt Heiser, James Willis, and Andrew Willis; Alfonzo Wells, Jr. v. Racine County Jail, William Dale, Securus, Aramark, Anderson, Sergeant Hesthaven, Letica, Racine County Jail Medical, C.O. Noonan, Racine County/County of Racine, Aventive, Evan Glaser, and Chad Cornell

Wells v. Winker; Wells v. Racine County Jail · No. 25-cv-1033-jdp; 26-cv-204-jdp · Decided May 5, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin addresses two civil-rights actions filed by Alfonzo Wells, Jr., concerning his failure to make initial partial filing-fee payments required under the Prison Litigation Reform Act. The court denies or defers several motions, grants Wells until June 1 to submit the required payments or document jail staff's alleged interference, and warns that failure to comply may result in dismissal. The court also denies as premature or unnecessary motions concerning judicial substitution, appointment of counsel, and exhaustion of administrative remedies.

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 5, 2026
DOCKET	25-cv-1033-jdp; 26-cv-204-jdp
DISPOSITION	other
PROCEDURAL POSTURE	Order addressing motions in two pro se prisoner civil-rights actions before screening, including motions to waive or extend the initial partial filing fee, motions concerning assignment of the judge, a motion for recruitment of counsel, and a motion concerning exhaustion of administrative remedies.

STANDARD OF REVIEW	The court applied the statutory requirements governing initial partial filing fees under the Prison Litigation Reform Act and exercised discretion regarding extensions, premature motions, and case administration.
PRECEDENTIAL VALUE	unpublished district court order; persuasive at most
PARTIES	Alfonzo Wells, Jr. v. Lucas Winker, Sgt. Heiser, Devin Anderson, J. Underly, Michael Polasky, Journal Times, Lee Enterprise Newspaper, Sgt. Neighbors, Mike Boyd, Raymond Robert Rutz, III, Kurt Heiser, James Willis, Andrew Willis, Racine County Jail, William Dale, Securus, Aramark, Anderson, Sergeant Hesthaven, Letica, Racine County Jail Medical, C.O. Noonan, Racine County/County of Racine, Aventive, Evan Glaser, Chad Cornell

TOPICS

civil procedure prisoners rights civil rights sanctions

PRACTICE AREAS

civil procedure prisoner civil rights in forma pauperis proceedings filing fees

QUESTIONS PRESENTED

1. Whether Wells was entitled to waive or defer the initial partial filing fees under 28 U.S.C. § 1915(b)(1).
2. Whether Wells should receive additional time to submit the initial partial filing fees and what documentation he must provide if jail staff prevent payment.
3. Whether Wells was entitled to substitution or appointment of the chief district judge.
4. Whether Wells's requests for recruitment of counsel and for relief concerning exhaustion of administrative remedies were premature.

HOLDINGS

1. A prisoner who is subject to 28 U.S.C. § 1915(b)(1) must submit the required initial partial filing fee, and Wells did not establish grounds for waiving that requirement.
2. The court granted Wells one final opportunity, until June 1, 2026, to submit the initial partial payments in both cases or provide the specified evidence and sworn declarations explaining why payment could not be made.
3. Wells was not entitled to substitution or appointment of the chief district judge because the case was properly assigned to the district judge, while the magistrate judge handled routine in forma pauperis filing-fee matters.
4. Wells's motion for recruitment of counsel was premature before payment and screening, and his exhaustion-related motion was unnecessary because exhaustion is an affirmative defense that defendants

must raise and prove.

KEY QUOTATIONS

“jail staff are obligated under 28 U.S.C. § 1915(b) to facilitate a prisoner’s payment of the filing fee.”

“If Wells does not submit his initial partial payments or comply with the above instructions by June 1, I will dismiss both cases without prejudice for failing to submit an initial partial payment of the filing fee.”

FACTUAL BACKGROUND

Wells filed two prisoner lawsuits and sought to waive or defer the initial partial filing fees, asserting that he lacked funds or that jail staff prevented payment. His trust-account statements showed balances exceeding \$200 and regular deposits, leading to assessments of \$50.64 in the 25-cv-1033 case and \$48.59 in the 26-cv-204 case. After several changing explanations and requests for extensions, Wells submitted a jail request form suggesting that he had asked staff to send the payments, although the form did not show who received it or how staff responded.

PROCEDURAL HISTORY

Wells filed two lawsuits in the Western District of Wisconsin, one concerning law-enforcement conduct and one concerning jail conditions. Magistrate Judge Wiseman assessed initial partial filing fees under the Prison Litigation Reform Act after reviewing Wells's trust-account statements, and granted several extensions in the first case. The district judge denied or deferred the pending motions as specified in the order, granted one final extension through June 1, 2026, and warned that failure to pay or comply with specified evidentiary instructions would result in dismissal without prejudice.

DISPOSITION

other

CASES CITED

- Kalinowski v. Bond, 358 F.3d 978, 978-79 (7th Cir. 2004)
- Martin v. United States, 96 F.3d 853, 856 (7th Cir. 1996)
- Teague v. Mayo, 553 F.3d 1068, 1071 (7th Cir. 2009)
- Davis v. Mason, 881 F.3d 982, 985 (7th Cir. 2018)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WISCONSIN ALFONZO WELLS, JR., Plaintiff, v. LUCAS WINKER, SGT. HEISER, DEVIN OPINION and ORDER ANDERSON, J. UNDERLY, MICHAEL POLASKY, JOURNAL TIMES, LEE ENTERPRISE NEWSPAPER, 25-cv-1033-jdp SGT. NEIGHBORS, MIKE BOYD, RAYMOND ROBERT RUTZ, III, KURT HEISER, JAMES WILLIS, and ANDREW WILLIS, Defendants.

ALFONZO WELLS, JR., Plaintiff, v. RACINE COUNTY JAIL, WILLIAM DALE, OPINION and ORDER SECURUS, ARAMARK, ANDERSON, SERGEANT HESTHAVEN, LETICA, RACINE COUNTY JAIL 26-cv-204-jdp MEDICAL, C.O. NOONAN, RACINE COUNTY/COUNTY OF RACINE, AVENTIVE, EVAN GLASER, and CHAD CORNELL, Defendants. Plaintiff Alfonzo Wells, Jr., proceeding without counsel, has filed two lawsuits, one that is primarily about the actions of law enforcement and one that is primarily about his conditions at the Racine County jail.

Neither case has gotten off the ground because Wells has not made his initial partial payments of the filing fees, which are required by statute because Wells is a “prisoner” within the meaning of the Prison Litigation Reform Act (PLRA). See 28 U.S.C. § 1915(b)(1) (requiring prisoners to submit an initial partial payment); *Kalinowski v. Bond*, 358 F.3d 978, 978–79 (7th Cir.

2004) (“Pretrial detainees are prisoners for purposes of the PLRA because they are in custody while accused of violations of criminal law.”) (internal quotation marks and alterations omitted). Generally, the court must receive the initial partial payment of the filing fee before it considers the merits of the case. See *Martin v. United States*, 96 F.3d 853, 856 (7th Cir.

1996); *Teague v. Mayo*, 553 F.3d 1068, 1071 (7th Cir. 2009). In Case no. 25-1033 (the ’1033 case), Wells has filed multiple requests to waive or defer his initial partial payment. He initially stated that he could not pay the fee because he did not have any money in his account and he had no ability to pay the filing fee. Dkt. 3. But his trust fund account showed a balance of \$261.77 and average monthly deposits into his account averaging \$253.22, Dkt.

4, so Magistrate Judge Wiseman denied Wells’s request to waive the initial partial payment and assessed a payment of \$50.64 using the formula in § 1915(b)(1), Dkt. 5. In Case no. 26-204 (the ’204 case), Wells also moved to waive the initial partial payment, again alleging that he had a zero balance in his account and that jail staff were refusing to send his trust fund account statement.

Dkt. 6. A few days later, the court received Wells’s trust fund account statement, showing that he is still receiving regular deposits and has a balance of more than \$200. Dkt. 8. Magistrate Judge Wiseman did not expressly rule on Wells’s motion to waive the initial partial payment, but the motion was implicitly denied when Magistrate Judge Wiseman assessed an initial partial payment of \$48.59.

(To clarify the record, I will expressly deny that motion now.) In the ’1033 case, Wells filed multiple motions for an extension of time to make his initial partial payment. In his first motion, he said that he had mailed a money order to the court, but he asked for more time for the payment “to arrive.” Dkt. 6.

In his second motion, he said nothing about the money order, but instead asked the court for an extension “to give [him] time to receive all [his] money from the jail at Racine County, as [he has]

been moved back and forth to another facility.” Dkt. 9. Magistrate Judge Wiseman granted the requests for more time and set a new deadline. Dkt. 10. Wells then filed another motion to waive the initial partial payment, alleging that the jail’s “computer system” was “down,” and would be down “for a couple more weeks,” and that was preventing him from sending his initial partial payment.

Dkt. 11. Wells also alleged that correctional officers had “intentionally destroyed 3 checks” that should have been deposited into his account. *Id.* He provided no details about this allegation and no documentary evidence to support it, and he did not allege that any destruction of checks prevented him from making the initial partial payment. Magistrate Judge Wiseman denied the motion to waive the fee, reasoning that the court was required by statute to collect the filing fee, but he granted another extension to pay the fee.

Dkt. 13. That brings us to the present. Wells has filed another motion for an extension of time to make an initial partial payment of the filing fee in the ’1033 case. Dkt. 17. In this motion, Wells alleges that he is trying to make the initial partial payment, but jail staff are refusing to send the payment. Specifically, he alleges that he “submitted a self bond slip on 02/24/26 to property at Racine County jail requesting \$50.64 be taken from [his] account” to send to the court.

Id. at 3. Wells does not explain what a “self bond slip” is, but he attaches a copy of a form called “Inmate request/complaint” addressed to “Property Supervisor” in which he asks that \$50.64 be sent to the court for his initial partial payment. Dkt. 19-1.

The request also states that Wells had previously submitted seven “self bond slips” making the same request between December 2025 and April 2026. At the bottom of the form is a space for the signature of the “deputy/clerk” who received the complaint. There is illegible handwriting in that space, along with the date of April 1, but the document includes no response to the request.

Wells has not filed any requests for extensions of time in the ’204 case, even though his initial payment in that case was due April 13. But he makes a similar allegation that jail staff are refusing to submit his initial partial payment. Dkt. 12. I view Wells’s most recent request for an extension of time in the ’1033 case with some skepticism. Wells initially made inaccurate statements about his ability to make an initial partial payment of the filing fee.

Since then, he has provided new reasons for seeking an extension or waiver each time he has made a new request. None of the new requests explain why the reason has changed. For example, Wells represented in his submission dated January 5, that he had already sent the court the initial partial payment, but he just needed time for the payment “to arrive,” Dkt.

6, but the court never received that payment, and Wells has not repeated his assertion that payment was sent. Nor has he explained why he made that assertion in the first place. He also does not

explain why he did not mention sooner his allegation that jail staff have been refusing to submit a payment since December 2025.

Having said that, the “inmate request/complaint” is some evidence that Wells is attempting to make his initial partial payment. Though even that evidence is far from clear because it does not identify who received the request or how that person responded to it. At this point, I will give Wells the benefit of the doubt and give him one more opportunity to make his initial payment in both the ’1033 case and the ’204 case.

If it is true that jail staff are refusing to submit Wells’s initial partial payment to the court, Wells should present this order to jail staff and direct them to the following statement: jail staff are obligated under 28 U.S.C. § 1915(b) to facilitate a prisoner’s payment of the filing fee. If jail staff believe that they may not or cannot submit that payment, they should explain their position in writing and send it to the court directly or provide a written response to Wells that he can provide to the court.

Wells’s new deadline for submitting his initial partial payment in both cases will be June 1. If Wells follows these instructions, but he is unable to persuade jail staff to submit a payment, he must submit the following to the court by June 1: (1) all documents that support his allegations that jail staff are refusing to submit his initial partial payments in both cases, including any written communications from jail staff about this issue; (2) an affidavit or declaration signed under penalty of perjury that describes in detail everything he has done to make his initial partial payment and everything jail staff have done to prevent that, providing the names of any jail staff involved and the dates of all relevant events; and (3) an affidavit or declaration signed under penalty of perjury that explains why Wells initially represented that he was unable to pay the filing fee in both cases, and why he later represented that he had already sent the initial partial payment to the court in the ’1033 case.¹ If Wells does not submit his initial partial payments or comply with the above instructions by June 1, I will dismiss both cases without prejudice for failing to submit an initial partial payment of the filing fee.

If it is later shown that Wells intentionally made any false or misleading representations to the court, I will impose sanctions on Wells, including dismissal of both cases with prejudice. ¹ A signed and dated declaration is under penalty of perjury if it includes the following statement: “I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on (date).” 28 U.S.C. § 1746. Two final points. First, Wells has filed a motion in both cases in which he asks for a “substitution” or an “appointment” so that “the chief district court judge” is presiding over the case rather than Magistrate Judge Wiseman. I will deny that motion as unnecessary. This case was assigned to me when Wells filed it. Magistrate Judge Wiseman handled

issues related to the initial partial payment because that is what he does in all cases involving requests to proceed in forma pauperis under 28 U.S.C. § 1915.

But I will be handling decisions on the merits of the case, including screening the complaint, as well as any decisions that could result in dismissal of the case. Second, Wells has filed multiple motions that relate to issues unrelated to his initial partial payment or screening of the complaint. Specifically, in the '1033 case, he has filed a motion for assistance in recruiting counsel, Dkt.

19, and in the '204 case, he has filed a motion related to the exhaustion of administrative remedies, Dkt. 17. These are both premature and will be denied without prejudice. I cannot consider Wells's counsel request until after he has submitted his initial partial payment and I have screened his complaint. He may renew his request after that.

As for the exhaustion issue, it is defendants' burden to show that he did not exhaust, see *Davis v. Mason*, 881 F.3d 982, 985 (7th Cir. 2018), so Wells does not need to submit any exhaustion materials unless defendants move for summary judgment on that issue. At this point, Wells should focus on making his initial partial payments so that both cases can be screened.

ORDER IT IS ORDERED that: 1. Alfonzo Wells, Jr.'s motion in Case no. 26-cv-204-jdp to waive the initial partial filing fee, Dkt. 6, is DENIED. 2. Wells's motion for a substitution of judge in Case no. 26-cv-204-jdp, Dkt. 12, and his motion to appoint the chief district judge in Case no. 25-cv-1033-jdp, Dkt. 21, are DENIED as unnecessary. 3. Wells's motion for an extension of time to make an initial partial payment in Case no. 25-cv-1033-jdp, Dkt.

17, is GRANTED. Wells may have until June 1 to submit his initial partial payments of \$50.64 in Case no. 25-cv-1033-jdp and \$48.59 in Case no. 26-cv-204-jdp. If Wells does not meet that deadline, and he does not follow the instructions in this order for showing why he cannot meet the deadline, I will dismiss both cases without prejudice. 4. Wells's motion for assistance in recruiting counsel in Case no. 25-cv-1033-jdp, Dkt.

19, is DENIED without prejudice. 5. Wells's motion regarding exhaustion of administration remedies in Case no. 26-cv- 204-jdp, Dkt. 17, is DENIED without prejudice. 6. The clerk of court is directed to send Wells two copies of this order so that he can give one copy to jail staff. Entered May 5, 2026. BY THE COURT: /s/ _____ JAMES D. PETERSON District Judge