

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Sammie L. Smith, Jr. v. Sarah Frosch, et al.

Smith v. Frosch · No. 26-cv-160-wmc · Decided February 27, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin grants Sammie L. Smith, Jr. leave to proceed in forma pauperis but assesses an initial partial filing-fee payment of \$67.94 under 28 U.S.C. § 1915(b)(1). The order requires payment or an explanation by March 23, 2026, and states that failure to comply 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	February 27, 2026
DOCKET	26-cv-160-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff submitted a proposed 42 U.S.C. § 1983 action, a certified inmate trust-fund account statement, and a motion for leave to proceed without prepaying the filing fee. The court granted indigent status, assessed an initial partial filing-fee payment, and stayed further action pending payment and statutory screening.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

prisoners rights civil rights section 1983 civil procedure

PRACTICE AREAS

civil procedure civil rights prisoner litigation

QUESTIONS PRESENTED

- Whether plaintiff qualified to proceed without prepaying the filing fee based on his indigent status.

2. What initial partial filing-fee payment plaintiff was required to make under the Prison Litigation Reform Act.
3. What consequence would follow if plaintiff failed to pay the initial partial filing fee or show cause for nonpayment.

HOLDINGS

1. Plaintiff qualifies for indigent status and may proceed without prepaying the entire filing fee, subject to the statutory obligation to pay an initial partial filing fee.
2. Plaintiff must pay an initial partial filing fee of \$67.94 by March 23, 2026, or explain in writing why he cannot make the payment.
3. If plaintiff fails to pay the initial partial filing fee by the deadline or show cause for nonpayment, the court will treat that failure as an indication that he wishes to withdraw the action voluntarily and will dismiss the case without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i).

KEY QUOTATIONS

“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).”

FACTUAL BACKGROUND

Plaintiff Sammie L. Smith, Jr. is a prisoner in the custody of the Wisconsin Department of Corrections. He submitted a proposed civil action under 42 U.S.C. § 1983, a certified trust-fund account statement covering the preceding six months, and a motion to proceed without prepaying the filing fee. Based on that account information, the court calculated an initial partial payment of \$67.94.

PROCEDURAL HISTORY

Sammie L. Smith, Jr., a Wisconsin prisoner, initiated this civil-rights action under 42 U.S.C. § 1983 and sought leave to proceed without prepaying the filing fee. The court found him eligible for indigent status, calculated an initial partial payment of \$67.94 under the Prison Litigation Reform Act, and ordered payment by March 23, 2026. The court stated that failure to pay or show cause would result in presumed voluntary withdrawal and dismissal without prejudice, subject to limited reopening procedures.

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 SAMMIE L. SMITH, JR., Plaintiff, ORDER v. Case No. 26-cv-160-wmc SARAH FROSCH, et al Defendants. Plaintiff Sammie L. Smith, Jr., a prisoner in the custody of the Wisconsin Department of Corrections, has submitted a proposed civil action under 42 U.S.C. § 1983. Plaintiff has filed a certified copy of a trust fund account statement and a motion for leave to proceed without prepaying the filing fee.

After considering the motion and supporting documentation, I conclude that plaintiff qualifies for indigent status. 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 the plaintiff's trust fund account statement for the six-month period preceding the complaint, I have calculated the initial partial payment to be \$67.94.

For this case to proceed, plaintiff must submit this amount on or before March 23, 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 authorities to make the payment from a release account.

However, prison officials will draw funds first from the prisoner's regular account and any portion of the initial partial payment remaining from the prisoner's release account. *Carter v. Bennett*, 399 F. Supp. 2d 936, 937 (W.D. Wis. 2005). ORDER IT IS ORDERED that: 1. Plaintiff Sammie L. Smith, Jr. is assessed an initial partial payment of \$67.94. Plaintiff must submit a check or money order payable to the clerk of court by March 23, 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. 3. If plaintiff fails to make the initial partial payment by March 23, 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 27th day of February, 2026. BY THE COURT: /s/ ANDREW R. WISEMAN United States Magistrate Judge

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