

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Jessie Ellis Gayle v. Anthony Johnson and Krista Cummings

Gayle · No. 26-cv-477-jdp · Decided May 22, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin grants Jessie Ellis Gayle leave to proceed without prepaying the filing fee in a 42 U.S.C. § 1983 action. The court assesses an initial partial filing-fee payment of \$1.71, due by June 19, 2026, and states that 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	May 22, 2026
DOCKET	26-cv-477-jdp
DISPOSITION	other
PROCEDURAL POSTURE	A prisoner submitted a proposed 42 U.S.C. § 1983 civil action and moved for leave to proceed without prepaying the filing fee. The court granted indigent status, assessed an initial partial filing-fee payment, and deferred further action pending payment and statutory screening.
STANDARD OF REVIEW	The court reviewed the motion for leave to proceed without prepaying the filing fee and the trust-fund account statement under the Prison Litigation Reform Act.
PRECEDENTIAL VALUE	Unpublished, nonprecedential district-court order

TOPICS

[prisoners rights](#) [section 1983](#) [civil rights](#) [civil procedure](#)

PRACTICE AREAS

[Prisoner civil rights](#) [Civil procedure](#) [Filing fees and in forma pauperis proceedings](#)

QUESTIONS PRESENTED

1. Whether plaintiff qualified to proceed without prepaying the full filing fee based on indigent status.
2. Whether plaintiff was required to pay an initial partial filing fee under the Prison Litigation Reform Act.
3. What procedural consequence would follow if plaintiff failed to pay the initial partial fee or show cause for nonpayment.

HOLDINGS

1. Plaintiff qualifies for indigent status and may proceed without prepaying the full filing fee, subject to the statutory partial-payment requirement.
2. Even an indigent prisoner must pay an initial partial filing fee calculated under 28 U.S.C. § 1915(b)(1); plaintiff's initial partial payment is \$1.71.
3. No further action will be taken until the clerk receives the initial partial payment and the court completes the screening required by the Prison Litigation Reform Act.
4. If plaintiff fails to make the initial partial payment by the deadline or show cause for nonpayment, the court will treat the failure as a voluntary withdrawal and dismiss the case without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i), subject to the court's stated reopening conditions.

KEY QUOTATIONS

“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).” (Order)

“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).” (Order ¶ 2)

FACTUAL BACKGROUND

Jessie Ellis Gayle is incarcerated in the custody of the Wisconsin Department of Corrections and submitted a proposed civil action under 42 U.S.C. § 1983. Plaintiff supplied a certified trust-fund account statement covering the six-month period preceding the complaint, from which the court calculated an initial partial filing-fee payment of \$1.71.

PROCEDURAL HISTORY

Plaintiff filed a proposed prisoner civil-rights action, a certified trust-fund account statement, and a motion to proceed without prepaying the filing fee. The court determined that plaintiff qualified for indigent status, calculated an initial partial payment of \$1.71, and ordered payment by June 19, 2026. The court stated that the case would be screened after payment and that failure to pay or show cause would result in voluntary dismissal without prejudice, subject to reopening under the stated conditions.

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 JESSIE ELLIS GAYLE, Plaintiff, ORDER v. Case No. 26-cv-477-jdp ANTHONY JOHNSON and KRISTA CUMMINGS, Defendants. Plaintiff Jessie Ellis Gayle, 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 \$1.71.

For this case to proceed, plaintiff must submit this amount on or before June 19, 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 Jessie Ellis Gayle is assessed an initial partial payment of \$1.71. Plaintiff must submit a check or money order payable to the clerk of court by June 19, 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 June 19, 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 22nd day of May, 2026.
BY THE COURT: /s/ ANDREW R. WISEMAN United States Magistrate Judge

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