

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Kevin L. Ballard v. NDCS et al.

Ballard · No. 8:26CV4 · Decided January 7, 2026

SUMMARY

The United States District Court for the District of Nebraska grants Kevin L. Ballard’s motion to proceed in forma pauperis in his action against NDCS and related defendants. The court orders him to pay an initial partial filing fee of \$2.38 within 30 days and directs his institution to collect subsequent monthly payments under 28 U.S.C. § 1915(b). The court also directs the Clerk’s Office to establish a payment deadline and conduct an initial review of the claims.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	J. M. Gerrard
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	January 7, 2026
DOCKET	8:26CV4
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for leave to proceed in forma pauperis in a prisoner civil-rights action.
PRECEDENTIAL VALUE	unpublished

TOPICS

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

PRACTICE AREAS

[Prisoner civil rights](#) [In forma pauperis proceedings](#) [Prisoner filing fees](#)

QUESTIONS PRESENTED

1. Whether Plaintiff should be permitted to proceed in forma pauperis.
2. What filing-fee obligations and payment procedures apply to a prisoner proceeding in forma pauperis under 28 U.S.C. § 1915(b).

HOLDINGS

1. Plaintiff is permitted to proceed in forma pauperis.
2. A prisoner proceeding in forma pauperis remains responsible for the full \$350 filing fee and must pay an initial partial filing fee followed by monthly installment payments under 28 U.S.C. § 1915(b).

KEY QUOTATIONS

“The Prison Litigation Reform Act “makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.”” (at 1)

“After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account. The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid.” (at 1–2)

FACTUAL BACKGROUND

Kevin L. Ballard, a prisoner plaintiff, sought leave to proceed in forma pauperis. His trust-account information showed average monthly deposits of \$11.91, which the court used to calculate an initial partial filing fee of \$2.38. The action is a prisoner civil-rights case against NDCS and other defendants.

PROCEDURAL HISTORY

The court received Plaintiff’s motion for leave to proceed in forma pauperis and his prison trust-account information. The court granted IFP status, assessed an initial partial filing fee, directed collection of subsequent monthly installments, and stated that it would later conduct its initial review of the claims.

DISPOSITION

other

CASES CITED

- In re Tyler, 110 F.3d 528, 529–30 (8th Cir. 1997)
- Jackson v. N.P. Dodge Realty Co., 173 F. Supp. 2d 951 (D. Neb. 2001)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA KEVIN L. BALLARD, Plaintiff, 8:26CV4 vs. MEMORANDUM AND ORDER NDCS ET AL, Defendant. This matter is before the Court on Plaintiff’s Motion for Leave to Proceed in Forma Pauperis (“IFP”). Filing No. 2.

The Court has received a copy of Plaintiff’s trust account information. Filing No. 3. Plaintiff is permitted to proceed IFP. Prisoner plaintiffs are required to pay the full amount of the Court’s

\$350.00 filing fee by making monthly payments to the Court, even if the prisoner is proceeding IFP. 28 U.S.C. § 1915(b).

The Prison Litigation Reform Act “makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” *In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001). Pursuant to 28 U.S.C. § 1915(b)(1), Plaintiff must pay an initial partial filing fee in the amount of 20 percent of the greater of Plaintiff’s average monthly account balance or average monthly deposits for the six months preceding the filing of the Complaint.

Here, the Court finds the initial partial filing fee is \$2.38, based on average monthly deposits in the amount of \$11.91. Plaintiff must pay this initial partial filing fee within 30 days or his case will be subject to dismissal. Plaintiff may request an extension of time if one is needed.

In addition to the initial partial filing fee, Plaintiff must “make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.” 28 U.S.C. § 1915(b)(2). The statute places the burden on the prisoner’s institution to collect the additional monthly payments and forward them to the Court as follows: After payment of the initial partial filing fee, the prisoner shall be required to make monthly payments of 20 percent of the preceding month’s income credited to the prisoner’s account.

The agency having custody of the prisoner shall forward payments from the prisoner’s account to the clerk of the court each time the amount in the account exceeds \$10 until the filing fees are paid. 28 U.S.C. § 1915(b)(2).

Therefore, after payment in full of the initial partial filing fee, Plaintiff’s institution must collect the remaining installments of the filing fee and forward the payments to the Court. Plaintiff is advised he will remain responsible for the entire filing fee, as long as he is a prisoner, even if the case is dismissed at some later time. See *In re Tyler*, 110 F.3d at 529–30; *Jackson*, 173 F. Supp. 2d at 951.

IT IS THEREFORE ORDERED that: 1. Plaintiff’s Motion for Leave to Proceed IFP, Filing No. 2, is granted. 2. Plaintiff must pay an initial partial filing fee of \$2.38 within 30 days unless the Court extends the time in which he has to pay in response to a written motion. 2 3.

After payment of the initial partial filing fee, Plaintiffs institution must collect the additional monthly payments in the manner set forth in 28 U.S.C. § 1915(b)(2), quoted above, and forward those payments to the Court. 4.

The Clerk’s office is directed to send a copy of this order to the appropriate official at Plaintiff’s institution. 5. The Clerk’s office is directed to set a pro se case management deadline in this case using the following text: February 6, 2026: initial partial filing fee payment due. 6. Plaintiff is

advised that, following payment of the initial partial filing fee, the next step in Plaintiffs case will be for the Court to conduct an initial review of Plaintiffs claims to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2)..

The Court will conduct this initial review in its normal course of business. Dated this 7th day of January, 2026. BY THE COURT: J M. Gerrard S^{enior} United States District Judge