

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

Kelvin D. Primer v. Lisa Gunnufson, et al.

Primer v. Gunnufson · No. 26-cv-69-wmc · Decided February 12, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin assesses plaintiff Kelvin D. Primer an initial partial filing-fee payment of \$48.69 under the Prison Litigation Reform Act. The order requires payment or an explanation by March 6, 2026 and states that failure to comply may result in voluntary 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 12, 2026
DOCKET	26-cv-69-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff submitted a certified inmate trust fund account statement in support of a motion for leave to proceed without prepaying the filing fee. The district court determined the initial partial filing-fee payment required under the Prison Litigation Reform Act.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- prisoners rights
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner litigation
- in forma pauperis proceedings

QUESTIONS PRESENTED

- Whether the incarcerated plaintiff qualified to proceed without prepaying the full filing fee while remaining responsible for an initial partial payment under the Prison Litigation Reform Act.

2. What initial partial filing-fee payment should be assessed based on the plaintiff's inmate trust fund account statement.
3. What consequence should follow if the plaintiff fails to pay the initial partial payment or show cause for nonpayment.

HOLDINGS

1. Even when a prisoner litigant qualifies to proceed without prepaying the filing fee, the litigant must pay an initial partial portion of the filing fee as required by 28 U.S.C. § 1915(b)(1).
2. The plaintiff was assessed an initial partial filing-fee payment of \$48.69.
3. If the plaintiff fails to make the initial partial payment by March 6, 2026, or fails to show cause for nonpayment, the court will treat the failure as an indication that he wishes to voluntarily withdraw the action and will dismiss the case without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i).

FACTUAL BACKGROUND

Plaintiff Kelvin D. Primer is incarcerated and submitted a certified inmate trust fund account statement. Based on the account information, the court calculated an initial partial filing-fee payment of \$48.69 and directed that it be paid by March 6, 2026.

PROCEDURAL HISTORY

The plaintiff initiated this civil action and sought leave to proceed without prepaying the filing fee. The court assessed an initial partial payment of \$48.69, stayed further action pending payment and mandatory screening, and warned that failure to pay or show cause would result in presumed voluntary withdrawal and dismissal without prejudice.

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 KELVIN D. PRIMER, Plaintiff, ORDER v. Case No. 26-cv-69-wmc LISA GUNNUFSON, et al. Defendants. Plaintiff Kelvin D. Primer has submitted a certified inmate trust fund account statement in support of a motion for leave to proceed without prepaying the filing fee.

The court must now determine whether plaintiff qualifies for indigent status and, if so, calculate an initial partial payment of the filing fee. 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 plaintiff's trust fund account statement, I have calculated plaintiff's initial partial payment to be \$48.69.

For this case to proceed, plaintiff must submit this amount on or before March 6, 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 officials to make the payment from a release account.

However, prison officials will draw funds first from plaintiff's regular account and any portion of the initial partial payment remaining from plaintiff's release account. *Carter v. Bennett*, 399 F. Supp. 2d 936, 937 (W.D. Wis. 2005). ORDER IT IS ORDERED that: 1. Plaintiff Kelvin D. Primer is assessed an initial partial payment of \$48.69. Plaintiff must submit a check or money order payable to the clerk of court by March 6, 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. 2. If plaintiff fails to make the initial partial payment by March 6, 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 12th day of February, 2026. BY THE COURT: /s/ ANDREW R. WISEMAN United States Magistrate Judge