

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
ILLINOIS

Porter v. East St. Louis Police Department, and Sam Unknown,
Midwest Towing Driver

Porter · No. 25-cv-02185-JPG · Decided January 5, 2026

SUMMARY

The court denied Annette Porter’s motion to proceed in forma pauperis and dismissed her § 1983 complaint without prejudice. The court found that Porter had not provided sufficient information to establish indigency and that her claims against the East St. Louis Police Department and a private towing driver failed to state a claim. Porter was granted leave to file an amended complaint and a new in forma pauperis motion by February 4, 2026.

CASE DETAILS

COURT	United States District Court for the Southern District of Illinois
WRITING FOR THE COURT	J. Phil Gilbert
JURISDICTION	United States District Court for the Southern District of Illinois
DECIDED	January 5, 2026
DOCKET	25-cv-02185-JPG
DISPOSITION	dismissed
PROCEDURAL POSTURE	Plaintiff moved for leave to proceed in forma pauperis. The district court screened the complaint under 28 U.S.C. § 1915(e)(2) and denied the motion and dismissed the complaint without prejudice.
STANDARD OF REVIEW	The court screened the complaint under 28 U.S.C. § 1915(e)(2), asking whether the action was frivolous, malicious, or failed to state a claim. It applied the plausibility standard for failure to state a claim and considered whether the plaintiff could make a rational argument in law or fact.
PRECEDENTIAL VALUE	Unknown; district court memorandum and order with no reporter citation.
PARTIES	Annette Porter v. East St. Louis Police Department, Sam Unknown, Midwest Towing Driver

TOPICS

section 1983

civil rights

pleadings

civil procedure

constitutional law

PRACTICE AREAS

Civil procedure

Civil rights

Constitutional law

QUESTIONS PRESENTED

1. Whether Porter provided sufficient financial information to establish that she was unable to pay the filing fee and therefore qualified to proceed in forma pauperis.
2. Whether the East St. Louis Police Department is a suable entity under 42 U.S.C. § 1983.
3. Whether Porter sufficiently alleged that the private towing driver acted under color of state law for purposes of a § 1983 claim.

HOLDINGS

1. The court could not conclude that Porter was unable to pay the filing fee because her motion did not identify the amount of her disability or workers' compensation income and did not disclose her vehicle as an asset.
2. The East St. Louis Police Department is not a suable entity under § 1983, so Porter failed to state a claim against it.
3. Porter failed to state a § 1983 claim against the towing driver because merely towing her vehicle at the direction of police did not establish action under color of state law.

KEY QUOTATIONS

"The test for determining if an action is frivolous or without merit is whether the plaintiff can make a rational argument on the law or facts in support of the claim." (at 1)

"An action fails to state a claim if it does not plead "enough facts to state a claim to relief that is plausible on its face."" (at 1)

"To state a claim under § 1983, a plaintiff must allege that the defendant deprived the plaintiff of rights secured by the Constitution or laws of the United States and that the defendant was acting under color of state law." (at 2)

"The simple fact that [Sam] towed the plaintiff's car at the police officers' direction is not a violation of § 1983." (at 2-3)

"The Court DENIES Plaintiff's Motion for Leave to Proceed in Forma Pauperis (Doc. 3) and DISMISSES the Complaint (Doc. 2) without prejudice" (at 3)

FACTUAL BACKGROUND

Porter alleged that she called the police for assistance but was instead arrested for disorderly conduct, which she claimed was wrongful. She also alleged that a Midwest Towing driver, Sam, seized or towed her 2017 Ford Edge

at the direction of the East St. Louis Police Department. Her in forma pauperis materials stated that she was unemployed and received disability or workers' compensation income but did not disclose the amount of income or list assets, despite allegations showing that she owned the vehicle.

PROCEDURAL HISTORY

Porter filed a civil-rights complaint alleging a wrongful arrest by the East St. Louis Police Department and an unlawful seizure of her vehicle by a Midwest Towing driver. She moved to proceed in forma pauperis. The district court found that she had not provided sufficient financial information to establish inability to pay the filing fee and that both § 1983 claims failed to state a claim. The court denied leave to proceed in forma pauperis, dismissed the complaint without prejudice, and allowed Porter until February 4, 2026, to file an amended complaint and a new in forma pauperis motion.

DISPOSITION

dismissed

CASES CITED

- Neitzke v. Williams, 490 U.S. 319, 325 (1989)
- Corgain v. Miller, 708 F.2d 1241, 1247 (7th Cir. 1983)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 547 (2007)
- Lucien v. Roegner, 682 F.2d 625, 626 (7th Cir. 1982)
- Averhart v. City of Chicago, 114 F. App'x 246, 247 (7th Cir. 2004)
- Chan v. Wodnicki, 123 F.3d 1005, 1007 (7th Cir. 1997)
- Gomez v. Toledo, 446 U.S. 635, 640 (1980)
- McKinney v. Duplain, 463 F.3d 679, 683 (7th Cir. 2006)
- Brokaw v. Mercer County, 235 F.3d 1000, 1009 (7th Cir. 2000)
- American Manufacturers Mutual Insurance Co. v. Sullivan, 526 U.S. 40, 50 (1999)
- Blum v. Yaretsky, 457 U.S. 991, 1002 (1982)
- Gardipee v. Cavil, No. 18-CV-1314-PP, 2018 WL 4705853, at *5 (E.D. Wis. Oct. 1, 2018)