

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
MISSOURI, SOUTHEASTERN DIVISION

Decker v. Hawley

Decker · No. No. 1:25-cv-00174-SEP · Decided December 11, 2025

SUMMARY

The United States District Court for the Eastern District of Missouri grants Jerry Wayne Decker leave to proceed in forma pauperis and assesses an initial partial filing fee of \$1.00. On initial review under 28 U.S.C. § 1915(e)(2)(B), the court dismisses Decker’s § 1983 damages action against Josh Hawley as time-barred. The court denies Decker’s motion for appointment of counsel as moot.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                   |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of Missouri, Southeastern Division                                                                                                                                                                                                                                                          |
| WRITING FOR THE COURT | Sarah E. Pitlyk                                                                                                                                                                                                                                                                                                                                   |
| JURISDICTION          | United States District Court for the Eastern District of Missouri, Southeastern Division                                                                                                                                                                                                                                                          |
| DECIDED               | December 11, 2025                                                                                                                                                                                                                                                                                                                                 |
| DOCKET                | No. 1:25-cv-00174-SEP                                                                                                                                                                                                                                                                                                                             |
| DISPOSITION           | dismissed                                                                                                                                                                                                                                                                                                                                         |
| PROCEDURAL POSTURE    | A self-represented prisoner filed a 42 U.S.C. § 1983 action seeking compensatory and punitive damages. The court granted in forma pauperis status, assessed an initial partial filing fee, and dismissed the complaint on initial review under 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim because the claims appeared time-barred.    |
| STANDARD OF REVIEW    | On initial review of an in forma pauperis complaint, the court must dismiss the action if it is frivolous, malicious, or fails to state a claim upon which relief may be granted. The court accepts well-pleaded factual allegations as true, disregards legal conclusions and conclusory statements, and liberally construes a pro se complaint. |
| PRECEDENTIAL VALUE    | unpublished district court memorandum and order; nonprecedential                                                                                                                                                                                                                                                                                  |
| PARTIES               | Jerry Wayne Decker v. Josh Hawley                                                                                                                                                                                                                                                                                                                 |

TOPICS

statute of limitations

section 1983

prisoners rights

civil rights

civil procedure

## PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

statute of limitations

in forma pauperis proceedings

## QUESTIONS PRESENTED

1. Whether the court should grant Plaintiff's application to proceed without prepayment of fees and costs and assess an initial partial filing fee.
2. Whether the complaint stated a timely and plausible 42 U.S.C. § 1983 claim or was subject to dismissal on initial review as barred by the applicable statute of limitations.
3. Whether Plaintiff's motion for appointment of counsel should be granted.

## HOLDINGS

1. The complaint was properly dismissed under 28 U.S.C. § 1915(e)(2)(B) because the alleged § 1983 claims accrued no later than March 14, 2017, and Missouri's five-year personal-injury statute of limitations expired on March 14, 2022, well before Plaintiff filed suit on October 21, 2025.
2. The application to proceed without prepayment of fees and costs was granted, and an initial partial filing fee of \$1.00 was assessed.
3. The motion for appointment of counsel was denied as moot because the action was dismissed.

## KEY QUOTATIONS

*“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.”*

*“The statute of limitations for this § 1983 action expired on March 14, 2022—three and a half years before Plaintiff filed this lawsuit on October 21, 2025.”*

## FACTUAL BACKGROUND

Plaintiff alleged that, while Josh Hawley was Missouri's Attorney General, Hawley changed Plaintiff's criminal sentence from five years concurrent with other charges to seven years consecutive to other charges. Plaintiff alleged that the change moved his parole date from May 3, 2017, to June 3, 2021. He sought \$500,000 in punitive damages and \$500,000 in compensatory damages for alleged false imprisonment.

## PROCEDURAL HISTORY

Plaintiff filed the action on October 21, 2025, together with an application to proceed without prepayment of fees and costs and a motion for appointment of counsel. The district court granted the fee application, assessed a \$1.00 initial partial filing fee, dismissed the complaint under § 1915(e)(2)(B), and denied appointment of counsel as moot. The court stated that an order of dismissal would accompany the memorandum and order.

## DISPOSITION

dismissed

#### CASES CITED

- Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997)
- Walker v. Barrett, 650 F.3d 1198, 1205 (8th Cir. 2011)
- Barton v. Taber, 820 F.3d 958, 964 (8th Cir. 2016)
- Brown v. Green Tree Servicing LLC, 820 F.3d 371, 372-73 (8th Cir. 2016)
- Haines v. Kerner, 404 U.S. 519, 520 (1972)
- Solomon v. Petray, 795 F.3d 777, 787 (8th Cir. 2015)
- Stone v. Harry, 364 F.3d 912, 914 (8th Cir. 2004)
- Martin v. Aubuchon, 623 F.2d 1282, 1286 (8th Cir. 1980)
- McNeil v. United States, 508 U.S. 106, 113 (1993)
- Sulik v. Taney County, Missouri, 393 F.3d 765, 767 (8th Cir. 2005)
- Myers v. Vogal, 960 F.2d 750, 751 (8th Cir. 1992)
- State v. Decker, No. 13BT-CRO00101 (36th Jud. Cir. Mar. 14, 2017) (Butler County)

#### OPINION

EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION JERRY WAYNE DECKER, ) Plaintiff, ) v. ) No. 1:25-cv-00174-SEP ) JOSH HAWLEY, ) Defendant. )  
MEMORANDUM AND ORDER Before the Court is self-represented Plaintiff Jerry Wayne Decker's application to proceed in district court without prepayment of fees and costs, Doc.

[3], and his motion to appoint counsel, Doc. [2]. Based on Plaintiff's financial information, the Court grants the application and assesses an initial partial filing fee of \$1.00. On initial review, the Court dismisses the complaint for failure to state a claim upon which relief may be granted. INITIAL PARTIAL FILING FEE Under 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action must generally pay the full filing fee.

If the prisoner has insufficient funds in his or her prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20% of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period.

After paying the initial partial filing fee, the prisoner must make monthly payments of 20% of the income credited to the prisoner's account the preceding month. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward the monthly payments to the Clerk of Court each time the amount in the prisoner's account exceeds \$10 until the filing fee is fully paid.

Id. Plaintiff has not submitted his account statement from the Cape Girardeau County Jail. He states that he has no income or cash or anything else of value. Based on this information, the Court will assess an initial partial filing fee of \$1.00. See *Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997). If Plaintiff is unable to pay the initial partial filing fee, he must submit a copy of his inmate account statement in support of his claim.

**LEGAL STANDARD ON INITIAL REVIEW** Under 28 U.S.C. § 1915(e)(2), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous or malicious, or if it fails to state a claim upon which relief can be granted.

To state a claim under 42 U.S.C. § 1983, a plaintiff must demonstrate a plausible claim 662, 679 (2009). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id. at 678. “Determining whether a complaint states a plausible claim for relief” is “a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” Id. at 679.

The Court must “accept as true the facts alleged, but not legal conclusions or threadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Barton v. Taber*, 820 F.3d 958, 964 (8th Cir. 2016); see also *Brown v. Green Tree Servicing LLC*, 820 F.3d 371, 372-73 (8th Cir. 2016) (court not required to “accept as true any legal conclusion couched as a factual allegation”).

When reviewing a pro se complaint under 28 U.S.C. § 1915(e)(2), the Court must give it the benefit of a liberal construction. *Haines v. Kerner*, 404 U.S. 519, 520 (1972). A “liberal construction” means that, “if the essence of an allegation is discernible... then the district court should construe the complaint in a way that permits the layperson’s claim to be considered within the proper legal framework.” *Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir.

2015) (quoting *Stone v. Harry*, 364 F.3d 912, 914 (8th Cir.2004)). But even pro se complaints must “allege facts, which if true, state a claim as a matter of law.” *Martin v. Aubuchon*, 623 F.2d 1282, 1286 (8th Cir. 1980); see also *Stone*, 364 F.3d at 914-15 (federal courts not required to “assume facts that are not alleged, just because an additional factual allegation would have formed a stronger complaint”).

And “procedural rules in ordinary civil litigation” need not be “interpreted so as to excuse mistakes by those who proceed without counsel.” *McNeil v. United States*, 508 U.S. 106, 113 (1993). THE COMPLAINT Plaintiff brings this action against Defendant Josh Hawley. Plaintiff alleges that when Hawley was Missouri’s Attorney General, he changed Plaintiff’s criminal sentence from five years running concurrently with other charges to seven years running consecutive to other charges.

Plaintiff further alleges that, as a result, his parole date was changed from May 3, 2017, to June 3, 2021. See Doc. [1] at 4. Plaintiff seeks \$500,000 in punitive damages and \$500,000 in compensatory damages for the alleged false imprisonment. DISCUSSION Plaintiff's claims appear to be time-barred.

Although 42 U.S.C. § 1983 contains no statute of limitations, the Supreme Court has held that "§ 1983 claims accruing within a particular state should be governed by that state's statute of limitations governing personal-injury claims." *Walker v. Barrett*, 650 F.3d 1198, 1205 (8th Cir. 2011). Missouri has a five-year statute of limitations for personal injury actions.

Mo. REV. STAT. § 516.120(4); *Sulik v. Taney Cty., Mo.*, 393 F.3d 765, 767 (8th Cir. 2005). While the statute of limitations may ordinarily be raised as an affirmative defense, a district court may properly dismiss an in forma pauperis complaint under 28 U.S.C. § 1915 when it is apparent the statute of limitations has expired. *Myers v. Vogel*, 960 F.2d 750, 751 (8th Cir.

1992). Plaintiff seeks monetary damages for alleged false imprisonment arising from a criminal sentence imposed in Missouri state court on March 14, 2017. See *State v. Decker*, No. 13BT-CRO00101 (36th Jud. Cir. Mar. 14, 2017) (Butler County).

The statute of limitations for this § 1983 action expired on March 14, 2022—three and a half years before Plaintiff filed this lawsuit on October 21, 2025. The Court will therefore dismiss this action for failure to state a claim upon which relief may be granted. See 28 U.S.C. § 1915(e)(2)(B).

Accordingly, IT IS HEREBY ORDERED that Plaintiff's application to proceed in district court without prepayment of fees and costs, Doc. [3], is GRANTED. IT IS FURTHER ORDERED that the Plaintiff shall pay an initial filing fee of \$1.00 within thirty (30) days of the date of this Order. Plaintiff must make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for an original proceeding.

IT IS FURTHER ORDERED that this action is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B). IT IS FURTHER ORDERED that Plaintiff's motion for appointment of counsel, Doc. [2], is DENIED as moot. An Order of Dismissal will accompany this Memorandum and Order. Dated this 11th day of December 2025. 2 SARAH E. PITLYK UNITED STATES DISTRICT JUDGE -3-