

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WISCONSIN

David A. Schlemm v. Kevin Carr, et al.

Schlemm · No. 25-cv-892-wmc · Decided January 27, 2026

SUMMARY

The United States District Court for the Western District of Wisconsin assesses plaintiff David A. Schlemm an initial partial filing-fee payment of \$3.41 under the Prison Litigation Reform Act. The order sets a February 23, 2026 deadline for payment or an explanation of inability to pay and states that failure to comply 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	January 27, 2026
DOCKET	25-cv-892-wmc
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a prisoner civil-rights action and moved for leave to proceed without prepaying the filing fee. The court considered his certified inmate trust fund account statement and entered an order assessing an initial partial filing-fee payment.
STANDARD OF REVIEW	The court applied the statutory filing-fee requirements for prisoner litigants under 28 U.S.C. § 1915(b)(1) based on the certified inmate trust fund account statement.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- prisoners rights
- civil procedure

PRACTICE AREAS

- prisoner civil rights
- civil procedure
- in forma pauperis filing fees

QUESTIONS PRESENTED

1. Whether plaintiff qualified to proceed without prepaying the filing fee while remaining obligated to pay an initial partial filing fee under the Prison Litigation Reform Act.
2. What amount should be assessed as plaintiff's initial partial filing-fee payment.
3. What consequence would follow if plaintiff failed to make the payment or show cause for his inability to do so.

HOLDINGS

1. A prisoner litigant who qualifies to proceed without prepaying the filing fee must nevertheless pay an initial partial filing-fee payment as required by 28 U.S.C. § 1915(b)(1).
2. Plaintiff was assessed an initial partial filing-fee payment of \$3.41.
3. If plaintiff failed to make the initial partial payment by February 23, 2026, or show cause for his inability to pay, the court would treat the failure as an indication that he wished to withdraw the action and dismiss the case without prejudice under Federal Rule of Civil Procedure 41(a)(1)(A)(i), subject to the 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).”

FACTUAL BACKGROUND

David A. Schlemm submitted a certified inmate trust fund account statement in support of his request to proceed without prepaying the filing fee. Based on the account information, the court calculated an initial partial payment of \$3.41. The court directed that funds be drawn first from the regular inmate account and then, if necessary, from a release account.

PROCEDURAL HISTORY

The action was filed in the Western District of Wisconsin. Before screening the complaint under the Prison Litigation Reform Act, the court determined plaintiff's indigent-status payment obligation and ordered him to pay an initial partial filing fee of \$3.41 by February 23, 2026, or explain his inability to pay.

DISPOSITION

other

CASES CITED

- Carter v. Bennett, 399 F. Supp. 2d 936, 937 (W.D. Wis. 2005)

OPINION

David A. Schlemm v. Kevin Carr, et al.

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WISCONSIN

DAVID A. SCHLEMM,

Plaintiff, ORDER v. Case No. 25-cv-892-wmc KEVIN CARR, et al. Defendant. Plaintiff David A. Schlemm 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 \$3.41. For this case to proceed, plaintiff must submit this amount on or before February 23, 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 David A. Schlemm is assessed an initial partial payment of \$3.41.

Plaintiff must submit a check or money order payable to the clerk of court by February 23, 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 February 23, 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 27th day of January, 2026. BY THE COURT: /s/

ANDREW R. WISEMAN

United States Magistrate Judge

