

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

**Carl Douglas Smith v. Lisa Stenseth, Victor Wanchena, Ashlee Berts,
Joshua Barnes, Branden Tatum, John Doe, and Jane Doe**

Smith v. Stenseth · No. 26-cv-0499 (LMP/DLM) · Decided February 26, 2026

SUMMARY

The United States District Court for the District of Minnesota recommends dismissing Carl Douglas Smith’s action without prejudice under Federal Rule of Civil Procedure 41(b) because he failed to pay the required initial partial filing fee by the court-ordered deadline. The Report and Recommendation also recommends denying Smith’s application to proceed without prepaying fees or costs as moot.

CASE DETAILS

COURT	United States District Court for the District of Minnesota
WRITING FOR THE COURT	Douglas L. Micko
JURISDICTION	United States District Court for the District of Minnesota
DECIDED	February 26, 2026
DOCKET	26-cv-0499 (LMP/DLM)
DISPOSITION	other
PROCEDURAL POSTURE	Report and recommendation by a United States magistrate judge recommending dismissal without prejudice for failure to prosecute after the plaintiff failed to pay an ordered initial partial filing fee.
STANDARD OF REVIEW	A district court has discretion to dismiss an action under Federal Rule of Civil Procedure 41(b) for failure to prosecute or failure to comply with the Federal Rules, a court order, or both.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Carl Douglas Smith v. Lisa Stenseth, Victor Wanchena, Ashlee Berts, Joshua Barnes, Branden Tatum, John Doe, Jane Doe

TOPICS

civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the action should be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for Smith's failure to pay the court-ordered initial partial filing fee.
2. Whether Smith's application to proceed in district court without prepaying fees or costs should be denied as moot.

HOLDINGS

1. The magistrate judge recommended that the action be dismissed without prejudice under Federal Rule of Civil Procedure 41(b) because Smith failed to comply with the court's order requiring payment of the initial partial filing fee.
2. The magistrate judge recommended denying Smith's application to proceed without prepaying fees or costs as moot.

KEY QUOTATIONS

“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”

FACTUAL BACKGROUND

The court ordered Plaintiff Carl Douglas Smith to pay an initial partial filing fee of \$17.14 and gave him 21 days, until February 19, 2026, to do so. Smith did not pay the fee by the deadline.

PROCEDURAL HISTORY

The court ordered Smith to pay an initial partial filing fee of \$17.14 within 21 days as a condition of proceeding with the action. After the deadline passed without payment, the magistrate judge recommended dismissal under Federal Rule of Civil Procedure 41(b) and recommended denying Smith's application to proceed without prepaying fees or costs as moot. The report and recommendation states that it is not a final order or judgment and is subject to objections under Local Rule 72.2.

DISPOSITION

other

CASES CITED

- Henderson v. Renaissance Grand Hotel, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam)

OPINION

Stenseth

PER CURIAM.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Carl Douglas Smith, Case No. 26-cv-0499 (LMP/DLM) Plaintiff,

v. REPORT AND RECOMMENDATION

Lisa Stenseth, Victor Wanchena, Ashlee Berts, Joshua Barnes, Branden Tatum, John Doe, and Jane Doe, Defendants. On January 29, 2026, this Court entered an order requiring Plaintiff Carl Douglas Smith to pay an initial partial filing fee of \$17.14 if he wanted this case to proceed. (See Doc. 5 at 2.) The Court gave Smith 21 days (that is, until February 19, 2026) to pay the fee, failing which the Court would recommend dismissing this action (under Federal Rule of Civil Procedure 41(b)) for failure to prosecute. (See *id.*) That deadline has passed, and Mr. Smith has not paid the fee. Accordingly, the Court now recommends dismissing this action without prejudice for failure to prosecute. See, e.g., *Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED THAT:

1. This action be DISMISSED WITHOUT PREJUDICE under Federal Rule of Civil Procedure 41(b) for failure to prosecute.
2. Plaintiff Carl Douglas Smith’s Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. 2) be DENIED as moot. Dated: February 26, 2026

s/Douglas L. Micko

DOUGLAS L. MICKO

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals. Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).