

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.

OPINION

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).