

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
CENTRAL DIVISION**

**KHANIS-ORION MORNINGSTAR  
ADC #164590**

**PLAINTIFF**

v.

**Case No. 4:19-cv-00212-KGB-JTK**

**WENDEY KELLEY, et. al.**

**DEFENDANTS**

**ORDER**

The Court has reviewed the Proposed Findings and Recommendations submitted by United States Magistrate Judge Jerome T. Kearney (Dkt. No. 6). Plaintiff Khanis-Orion Morningstar has not filed objections to the Proposed Findings and Recommendation, and the time to file such objections has passed. However, Mr. Morningstar has filed a motion to dismiss claims (Dkt. No. 7). Mr. Morningstar gives several reasons for his request to dismiss his complaint, including that he lacked the tools needed to file his claim properly. If his complaint is dismissed, Mr. Morningstar asks that his claims be dismissed without any issues and that his federal filing fees be waived.

For good cause shown, the Court grants Mr. Morningstar's motion to dismiss his claims and dismisses his claims without prejudice (Dkt. No. 7). However, under the Prison Litigation Reform Act ("PLRA"), 28 U.S.C. § 1915, the Court is unable to waive his federal filing fee, and Mr. Morningstar remains responsible for the full filing fee. *See In re Tyler*, 110 F.3d 528, 529-30 (8th Cir. 1997) ("Even if [plaintiff's] petition is dismissed, [plaintiff] will still be assessed the full filing fee because the PLRA makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.").

It is therefore ordered that:

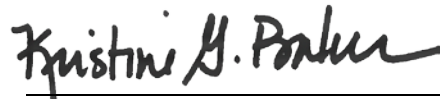
1. The Court considers Judge Kearney's Proposed Findings and Recommendations moot (Dkt. No. 6);

2. The Court grants Mr. Morningstar's motion to dismiss claims and dismisses without prejudice his claims (Dkt. No. 7);

3. Should Mr. Morningstar pursue these claims again, he must do so before this Court; and

4. Should Mr. Morningstar pursue these claims again, the Court will return to the current procedural posture of this case, and the Court may at that time reconsider Judge Kearney's Proposed Findings and Recommendations.

It is so ordered this the 9th day of March, 2020.



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Kristine G. Baker  
United States District Judge