

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Michael Collins Iheme,

Civil No. 12-1042 (DWF/JJK)

Plaintiff,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Michelle Smith, Waren Stillwater
prison facility; and Tony Forchas,
Industry Director,

Defendants.

This matter is before the Court upon Plaintiff Michael Collins Iheme's ("Plaintiff") *pro se* objections to Magistrate Judge Jeffrey J. Keyes's May 25, 2012 Report and Recommendation insofar as it recommends that: (1) Plaintiff's application to proceed *in forma pauperis* be denied; and (2) this action be dismissed without prejudice.

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of the parties, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Having carefully reviewed the record, the Court concludes that Plaintiff's objections offer no basis for departure from the Report and Recommendation. Plaintiff contends that, in the past, he has been denied access to his funds and that Defendants have retaliated against him. (Doc. No. 5 at 1.) Such allegations, however, do not

overcome the Magistrate's finding that Plaintiff has failed to pay the partial filing fee (\$40.91) within the twenty (20) days ordered by the Court. (Doc. No. 4 at 2; *see* Doc. No. 3 at 3-4.) The Court concludes, as did Magistrate Judge Keyes, that Plaintiff has failed to timely offer a valid excuse for his failure to comply with the Court order requiring partial payment. (*See* Doc. No. 3 at 3-4.) Plaintiff's Complaint is thus rightfully dismissed and his IFP application is properly denied.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Michael Collins Iheme's objections (Doc. No. [5]) to Magistrate Judge Jeffrey J. Keyes's May 25, 2012 Report and Recommendation are **OVERRULED**.
 2. Magistrate Judge Jeffrey J. Keyes's May 25, 2012 Report and Recommendation (Doc. No. [4]) is **ADOPTED**.
 3. Plaintiff's application to proceed *in forma pauperis* (Doc. No. [2]) is **DENIED**.
 4. This action is **DISMISSED WITHOUT PREJUDICE**.
- LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: June 20, 2012

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge