

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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JAMES DONALD DAHL,

Civil No. 17-621 (JRT/BRT)

Plaintiff,

v.

**ORDER ADOPTING THE REPORT  
AND RECOMMENDATION OF THE  
MAGISTRATE JUDGE**

MICHAEL JEVON LIEBERG and  
JANELLE PROKOPEC KENDALL,

Defendants.

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James Donald Dahl, No. 124796, MN Correctional Facility, 1101 Linden Lane, Faribault, MN 55031, *pro se*.

Plaintiff James Donald Dahl filed the instant action on February 27, 2017, asserting claims under 42 U.S.C. § 1983 against state prosecutors. (Compl., Feb. 27, 2017, Docket No. 1.) On April 3, 2017, United States Magistrate Judge Becky R. Thorson issued a Report and Recommendation (“R&R”) recommending that the complaint be dismissed without prejudice under Fed. R. Civ. P. 41(b) for failure to prosecute. (R&R at 2, Apr. 3, 2017, Docket No. 6.) The Magistrate Judge made this recommendation in response to Dahl’s explicit refusal to pay the filing fee for this case, which is mandatory pursuant to the Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915(b)(1). (*Id.* at 1-2.)

Since the magistrate judge filed the R&R, Dahl submitted a letter to the Court. (Letter to the Clerk’s Office/Judge Becky Thorson, Apr. 7, 2017, Docket No. 7.) In the letter, Dahl reiterates his refusal to pay the filing fee and generally argues that the requirement that he pay the filing fee is unconstitutional because it limits his right to

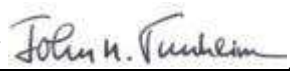
access the courts. (*Id.*) The Court liberally construes the letter as an objection to the R&R.<sup>1</sup> However, the constitutionality of the PLRA's filing fee requirements is well-settled. *See Lefkowitz v. Citi-Equity Grp., Inc.*, 146 F.3d 609, 612 (8<sup>th</sup> Cir. 1998) (“[T]he PLRA's prisoner filing fee requirements . . . do not deny prisoners constitutionally guaranteed access to courts.”); *accord Murray v. Dosal*, 150 F.3d 814, 818 (8<sup>th</sup> Cir. 1998). Therefore, the Court will overrule Dahl's objections and adopt the R&R.

### ORDER

Based on the foregoing, and all the files, records, and proceedings herein, the Court **OVERRULES** plaintiff James Donald Dahl's objection [Docket No. 7] is **OVERRULED**, and **ADOPTS** the Report and Recommendation of the Magistrate Judge [Docket No. 6.] **IT IS HEREBY ORDERED** that Dahl's Complaint [Docket No. 1] is **DISMISSED without prejudice**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

DATED: June 8, 2017  
at Minneapolis, Minnesota.

s/   
\_\_\_\_\_  
JOHN R. TUNHEIM  
Chief Judge  
United States District Court

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<sup>1</sup> Dahl also submitted one additional filing to the Court, styled “A Modest Proposal,” which is a generalized request that a state statute be held unconstitutional. (A Modest Proposal, Apr. 17, 2017, Docket No. 8.) Dahl did not mark this document with the case number for the instant action, and it appears that by sending the document, he intended to garner signatures of support for his position with regard to the state statute, along the lines of a petition. Because this document does not relate to the subject matter of the instant action in any way, the Court declines to construe the document as an objection to the R&R.