

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Calvin S. Wedington,  Plaintiff,  v.  Office of the Inspector General, et. al.,  Defendants.	Case No. 18-cv-2694 (SRN/SER)  <b>MEMORANDUM OPINION AND ORDER</b>
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Calvin S. Wedington, 18915-037, FMC-Devens, P.O. Box 879, Ayer, MA 01432, pro se.

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SUSAN RICHARD NELSON, United States District Judge

This case is before the Court on Plaintiff's objection ("Objection") [Doc. No. 10] to United States Magistrate Judge Steven Rau's January 14, 2019, Report and Recommendation ("R&R") [Doc. No. 9]. Magistrate Judge Rau recommended that the Court dismiss Plaintiff's complaint ("Complaint") [Doc. No. 1] without prejudice. (R&R at 3.) For the reasons set forth below, the Court overrules Plaintiff's Objection, adopts the R&R in full, and dismisses Plaintiff's Complaint without prejudice.

**I. Background**

On September 17, 2018, Plaintiff filed his Complaint and an application to proceed *in forma pauperis* ("IFP") [Doc. No. 2]. On October 9, 2018, Magistrate Judge Rau granted Plaintiff's IFP application. (Oct. 9, 2018 Order [Doc. No. 4].) Plaintiff was given until November 30, 2018 to pay an initial partial filing fee of \$2.68 and was warned

that, if he failed to do so, the action would be dismissed without prejudice for failure to prosecute. (*Id.* at 4.)

Plaintiff never paid the required filing fee. As a result, on January 14, 2019, Magistrate Judge Rau recommended that the Complaint be dismissed without prejudice. (R&R at 2.) On January 25, 2018, Plaintiff filed a timely objection to Magistrate Judge Rau's R&R. (Obj. at 1.)

## **II. Discussion**

This Court reviews *de novo* any portion of the magistrate judge's opinion to which specific objections are made, and "may accept, reject, or modify, in whole or in part, the findings or recommendations" contained in that opinion. 28 U.S.C. § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b); D. Minn. L.R. 72.2(b)(3).

Plaintiff objects to Magistrate Judge Rau's recommendation that this case be dismissed for failure to prosecute. However, Plaintiff's objections fail entirely to address the basis for Magistrate Judge Rau's recommendation.

Because Plaintiff did not pay the required initial partial filing fee and did not communicate with the Court to seek additional time to pay the fee, the action is dismissed without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App'x 496, 497 (8th Cir. 2008).

## **IV. Conclusion**

Based on the foregoing, and all the files, records and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Objection [Doc. No. 10] is **OVERRULED**;

2. Magistrate Judge Rau's R&R [Doc. No. 9] is **ADOPTED** in its entirety; and

3. Plaintiff's Complaint [Doc. No. 1] is **DISMISSED WITHOUT PREJUDICE**.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: January 31, 2019

s/Susan Richard Nelson  
SUSAN RICHARD NELSON  
United States District Judge