

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PATRICK RONALD RUSSELL,

4:09CV3249

Plaintiff,

v.

**MEMORANDUM
AND ORDER**

ROBERT HOUSTON, DENNIS
BAKEWELL, MELVIN ROUF,
CURTIS MOFFAT, MICHAEL
EDISON, and MARK DANNER,

Defendants.

This matter is before the court on its own motion. On December 8, 2009, Plaintiff filed his Complaint in this matter along with a Motion for Leave to Proceed in Forma Pauperis (“IFP”). (Filing Nos. [1](#) and [2](#).) On December 11, 2009, the court granted Plaintiff’s IFP Motion and assessed an initial partial filing fee pursuant to [28 U.S.C. § 1915\(b\)\(1\)](#). (Filing No. [6](#).) In doing so, the court warned Plaintiff that his case would be subject to dismissal if he failed to pay the initial partial filing fee by January 10, 2010. (*Id.*)

It is now February 5, 2010, and Plaintiff has not paid the initial partial filing fee in this matter. (See Docket Sheet.) Therefore, Plaintiff’s case is dismissed for failing to comply with the court’s December 11, 2009, Memorandum and Order. See [Fed. R. Civ. Pro. 41\(b\)](#); see also [Conley v. Holden, No. 03-3908, 2004 WL 2202452, at *1 \(8th Cir. Sept. 21, 2004\)](#) (affirming district court’s dismissal of inmate’s case for failing to pay the assessed initial partial filing fee).

IT IS THEREFORE ORDERED that:

1. Plaintiff's Complaint (filing no. [1](#)) is dismissed without prejudice because Plaintiff failed to comply with this court's orders.

2. A separate judgment will be entered in accordance with this Memorandum and Order.

DATED this 5th day of February, 2010.

BY THE COURT:

Richard G. Kopf
United States District Judge

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