

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

RICKY NELSON, #2079621

§

VS.

§

CIVIL ACTION NO. 4:16cv909

§

CHOICE MOORE MEDICAL DEPT.

§

§

ORDER OF DISMISSAL

This civil action was referred to United States Magistrate Judge, Kimberly C. Priest Johnson, who issued a Report and Recommendation concluding that the complaint should be dismissed without prejudice (Dkt #14). The Report, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Plaintiff filed objections. After conducting a *de novo* review of the objections, the Court concludes they are without merit.

Plaintiff states he “did not know that he should file a[n] application to proceed *in forma pauperis* along with an inmate trust fund account sheet until today being March 31, 2017.” Plaintiff states he has now submitted an application to proceed *in forma pauperis* and a copy of his inmate trust account. He states he has thus “shown good cause why the Court should not dismiss for failure to prosecute.” Plaintiff is mistaken. On February 9, 2017, the Court granted Plaintiff’s motion to proceed *in forma pauperis* and ordered him to pay an initial partial filing fee (Dkt. 11). Plaintiff failed to pay that fee. Plaintiff acknowledges his failure to pay the fee in the first sentence of his objections, yet, fails to address the issue further. The Magistrate’s Report correctly indicates that the complaint should be dismissed for failure to comply with the Court’s Order to pay the initial

partial filing fee. The Court concludes the findings and conclusions of the Magistrate Judge are correct, and adopts the same as the findings and conclusions of the Court.

It is therefore **ORDERED** Plaintiff's complaint (Dkt. #10) is **DISMISSED** without prejudice.

It is further **ORDERED** all motions not previously ruled on are hereby **DENIED**.
SIGNED this 15th day of December, 2017.


AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE