

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

DANIEL MACIAS,

Plaintiff,

v.

CASE NO. 07-3163-SAC

(FNU) McFORD,

et al.,

Defendants.

O R D E R

By Order entered July 9, 2007, this court assessed an initial partial filing fee of \$15.00 in this case. The court noted it had already received a payment of \$4.00 from plaintiff, and gave him thirty (30) days to submit the additional \$11.00. The court warned that failure to pay the full assessed fee within that time could result in dismissal of this action without prejudice. More than thirty days have passed since plaintiff was ordered to pay the partial fee, and no objection or fee has been submitted to the court. The court finds this action must be dismissed, without prejudice, on account of plaintiff's failure to submit the assessed partial filing fee¹.

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The court also found in its prior order that plaintiff had failed to state facts to support a claim of federal constitutional violation, and required plaintiff to show cause why this action should not be dismissed. Plaintiff responded to this part of the court's prior order. However, the allegations made in his response do not show anything other than a claim of medical malpractice, which should be pursued in state court. Plaintiff reaffirms that he has received various medications and treatment on numerous occasions. He simply disagrees that the medical care provided has been proper and adequate.

IT IS THEREFORE ORDERED that plaintiff's Motion for Leave to Proceed in forma pauperis (Doc. 2) is denied, and this action is dismissed without prejudice, due to plaintiff's failure to pay the assessed partial filing fee.

IT IS SO ORDERED.

Dated this 21st day of August, 2007, at Topeka, Kansas.

s/Sam A. Crow

U. S. Senior District Judge