

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

JEFFREY C. ZANDER,

Plaintiff,

v.

CASE NO. 16-3065-SAC

C. MAYE,

Defendants.

ORDER OF DISMISSAL

The plaintiff, Jeffrey C. Zander, has filed a motion to withdraw his complaint without prejudice (Doc. #11). Plaintiff also requests a refund of the portion of the filing fee he has paid in this case. The court has reviewed the motion and finds that it should be granted in part and denied in part.

Regarding plaintiff's refund request, a prisoner who files a civil action is statutorily required to pay the full amount of filing fee. 28 U.S.C. 1915(b)(1). The statute contains no provision to excuse or waive payment of the fee, no matter the outcome of the case. *Purkey v. Green*, 28 Fed. Appx. 736, 745 (Aug. 17, 2001). Accordingly, notwithstanding dismissal of the action, plaintiff is still required to pay the full filing fee to the district court. Plaintiff's refund request is therefore denied.

Regarding plaintiff's motion to withdraw, the court finds that it should be granted.¹

¹ In doing so, the court notes that the Notice and Order to Show Cause directed plaintiff to address apparent problems with both the statute of limitations and the absence of allegations that the named defendant personally participated in the constitutional deprivation. Plaintiff's subsequent filings with the court address only the statute of limitations issue. The court therefore concludes that plaintiff cannot show cause why the matter should not be dismissed for failure to state a claim against the named defendant.

IT IS THEREFORE BY THE COURT ORDERED that plaintiff's Motion to Withdraw (Doc. #11) is GRANTED in part and DENIED in part. Plaintiff's refund request is denied, and this case is dismissed.

IT IS FURTHER ORDERED THAT plaintiff's motions for extension of time (Docs. #5, 6, 7, and 10) are denied as moot.

IT IS SO ORDERED.

Dated this 22nd day of June, 2017, at Topeka, Kansas.

s/ Sam A. Crow
U. S. Senior District Judge