

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

| | | |
|------------------------------------------|---|------------------------|
| THOMAS AARON FOSTER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | CIVIL ACTION |
| v. |) | |
| |) | |
| JOHNSON COUNTY FAIRBOARD, et al., |) | No. 18-2586-KHV |
| |) | |
| Defendants. |) | |
| _____ |) | |

ORDER

Thomas Aaron Foster brings suit pro se against the Johnson County Fairboard, Denise King and Jeff Bingman, alleging that they violated his rights by refusing to allow him to rent a taxpayer-funded facility because of his association with George Marriott. See Civil Complaint (Doc. #1) filed November 2, 2018. On November 2, 2018, plaintiff filed a Motion To Proceed Without Prepayment Of Fees (Doc. #3). On December 6, 2018, Magistrate Judge Teresa J. James recommended that the Court overrule the motion and dismiss plaintiff's complaint for failure to state a claim upon which relief may be granted. See Report And Recommendation (Doc. #5) at 2-3. This matter comes before the Court on plaintiff's Objection To Report And Recommendation (Doc. #8) filed December 21, 2018.

In recommending that the Court overrule plaintiff's motion to proceed in forma pauperis, the magistrate judge found that plaintiff has sufficient resources to pay the filing fee. See Report And Recommendation (Doc. #5) at 2. In his objection, plaintiff does not discuss or object to this finding.¹ See Objection (Doc. #8). Upon careful review, with regard to plaintiff's ability to pay the filing fee, the Court agrees in full with the magistrate judge findings and recommendation.

¹ In his objection, plaintiff asserts that this is "clearly a discrimination case with evidence attached." Objection (Doc. #8).

Accordingly, the Court orders that on or before **January 25, 2019**, plaintiff shall pay the filing fee of \$400.00 to the Clerk of the Court. If plaintiff fails to do so, the Clerk without further notice shall dismiss plaintiff's claims without prejudice.

The magistrate judge also recommended that the Court dismiss plaintiff's claims for failure to state a claim upon which relief may be granted. See Report And Recommendations (Doc. #5) at 3. Since that time, plaintiff has filed an Amended Civil Complaint (Doc. #7). In light of the amended filing and the Court's denial of plaintiff's request to proceed in forma pauperis, the Court will not dismiss plaintiff's claims sua sponte at this time.

IT THEREFORE ORDERED that the Court adopts in part the Report And Recommendation (Doc. #5) filed December 6, 2018.

IT FURTHER ORDERED that plaintiff's Motion To Proceed Without Prepayment Of Fees (Doc. #3) filed November 2, 2018 is **OVERRULED**. On or before **January 25, 2019**, plaintiff shall pay the filing fee of \$400.00 to the Clerk of the Court. If plaintiff fails to do so, the Clerk without further notice shall dismiss plaintiff's claims without prejudice.

IT FURTHER ORDERED that the Clerk send plaintiff a copy of this Order by regular and certified mail.

Dated this 11th day of January, 2019 at Kansas City, Kansas.

s/ Kathryn H. Vratil
KATHRYN H. VRATIL
United States District Judge