

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

**PATRICK C. LYNN,**

**Plaintiff,**

**v.**

**CASE NO. 20-3048-JTM**

**UNIT TEAM HACKNEY, et al.,**

**Defendants.**

**ORDER OF DISMISSAL**

This matter is a civil rights action filed under 42 U.S.C. § 1983 by a prisoner in state custody. Plaintiff presents claims alleging violations of the First and Eighth Amendments and the Kansas Open Records Act as well as state tort claims.

On February 10, 2020, the Court denied leave to proceed in forma pauperis, citing 28 U.S.C. § 1915(g) and noting plaintiff's failure to adequately allege that he is in imminent danger of serious physical injury as a result of the violations he claims. The Court directed plaintiff to submit the \$400.00 filing fee on or before March 10, 2020. Plaintiff has failed to pay the fee, but he has submitted a number of pleadings and exhibits in support of his claim that he should be allowed to proceed in forma pauperis.

The Court has examined the materials submitted by the plaintiff and remains convinced that his claims in this matter do not plausibly allege that he is in imminent danger. Although plaintiff has presented additional argument concerning his medical condition, there is authority "that there must be a nexus between the imminent danger a three-strikes prisoner alleges to obtain IFP status and the legal claims asserted in his complaint." *Pettus v. Morgenthau*, 554 F.3d 293,

297 (2d Cir. 2009); see also *Lomax v. Ortiz-Marquez*, 754 F. App'x 756, 759 (10th Cir. 2018) (unpublished) (adopting Second Circuit's position and citing *Pettus*).

Accordingly, because plaintiff has failed to submit the filing fee as directed, the Court will dismiss this matter without prejudice. See *Young v. U.S.*, 316 F. App'x 764, 771 (10th Cir. 2009) (stating Fed. R. Civ. P. 41(b) "authorizes a district court, upon a defendant's motion, to order the dismissal of an action for failure to prosecute or for failure to comply with the Federal Rules of Civil Procedure or 'a court order'" and noting that a Court may enter such a dismissal *sua sponte*).

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice due to plaintiff's failure to pay the filing fee.

IT IS FURTHER ORDERED plaintiff's motion for order (Doc. 6), motion for reconsideration or to alter or amend (Doc. 8), motion for appointment of a special master or for the appointment of counsel (Doc. 9), and motion to supplement (Doc. 12) are denied as moot.

**IT IS SO ORDERED.**

DATED: This 8th day of May, 2020, at Wichita, Kansas.

S/ J. Thomas Marten

J. THOMAS MARTEN  
U.S. District Judge