

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

LINDSAY C. RODEN,

Plaintiff,

v.

KAMI S. SJOBERG,

Defendant.

Case No. 21-2467-DDC-JPO

MEMORANDUM AND ORDER

Plaintiff filed her Complaint in this case on October 15, 2021 (Doc. 1). The same day, a summons was issued for defendant Kami Sjoberg and provided to plaintiff for service. But the docket also reflects that plaintiff has not served defendant with the summons and the Complaint, as required by Fed. R. Civ. P. 4(m).

On January 25, 2022, the court issued a Notice and Order to Show Cause (Doc. 3). It ordered plaintiff to show cause in writing to the court, on or before February 8, 2022, why the court should not dismiss this case for failing to serve defendant under Fed. R. Civ. P. 4(m) or for lack of prosecution under Fed. R. Civ. P. 41(b).

Plaintiff responded on February 9, 2022. *See* Doc. 4. She provided notice that she was withdrawing her case. The court construes plaintiff's response as a notice of voluntary dismissal under Fed. R. Civ. P. 41(a)(1)(A)(i). This voluntary dismissal doesn't require a court order, but, so that the docket is clear, the court notes that this case is dismissed without prejudice.

Also, plaintiff asked the court to consider refunding her filing fee. *See* Doc. 5.¹ But plaintiff hasn't cited any authority—and the court isn't aware of any authority—permitting a refund of the filing fee in these circumstances. *See Stewart v. Norwood*, No. 16-3189-JAR, 2018 WL 558182, at *1 n.1 (D. Kan. Jan. 25, 2018) (collecting cases denying refund of the filing fee).

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiff's Motion for Order for Refund of \$402.00 Filing Fee (Doc. 5) is denied. Given plaintiff's voluntary dismissal of this case under Fed. R. Civ. P. 41(a)(1)(A)(i), this case is dismissed without prejudice.

IT IS SO ORDERED.

Dated this 14th day of February, 2022, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge

¹ Doc. 5 is identical to Doc. 4, plaintiff's response to the court's Show Cause Order. But the Clerk's Office made a separate docket entry for the part of plaintiff's response requesting a refund and docketed it as a Motion for Order of Refund of \$402 Filing Fee. This Order will conclude this motion, showing that the court has denied plaintiff's request.