

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

FRANK A. RUDECOFF,

CIVIL NO. 15-4136 (PJS/JSM)

Plaintiff,

v.

REPORT AND RECOMMENDATION

CHELSEA PARK; THE GOVERNMENT
OF MEXICO; DONALD LOPEZ; DANIEL
ORTIZ; and TITLE EXPERTS, INC.,

Defendants.

JANIE S. MAYERON, United States Magistrate Judge

Plaintiff Frank A. Rudecoff commenced this action by filing a complaint alleging breach of contract by the named defendants. Rudecoff did not pay the required filing fee for this case, but instead filed an application seeking leave to proceed *in forma pauperis* (“IFP”). See Docket No. 2. In an order dated November 25, 2015, this Court denied Rudecoff’s IFP application, finding that he did not qualify financially for IFP status. See Docket No. 4. Rudecoff was given 20 days to pay the required filing fee for this action, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

That deadline has now passed, and Rudecoff has not paid the required filing fee. In fact, Rudecoff has not communicated with the Court about this case at all since commencing this action. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See *Henderson v. Renaissance Grand Hotel*, 267 Fed. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action

under Rule 41(b) for a plaintiff's failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.").

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED that this action be DISMISSED WITHOUT PREJUDICE under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: December 21, 2015

s/ Janie S. Mayeron

JANIE S. MAYERON

United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.