



Binford v. Carter et al

2023 | Cited 0 times | D. Minnesota | August 11, 2023

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

Exavir Binford, Plaintiff, v. Mayor Melvin Carter, et al., Defendants.

Case No. 23-cv-1785 (PAM/DTS)

REPORT AND RECOMMENDATION

In an order dated July 10, 2023, this Court directed Exavir Binford to submit an initial partial filing fee of \$52.40, consistent with 28 U.S.C. § 1915(b). See Dkt. No. 4. Binford was given 21 days to submit the required initial partial filing fee, 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 Binford has not submitted the required initial partial filing fee. Accordingly, this Court now recommends, consistent with the warning previously given to Binford, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See *Wewerka v. Roper*, 431 F. 517, 517 (8th Cir. 2011) (per curiam) (affirming dismissal without prejudice pursuant to Rule

RECOMMENDATION For the reasons set forth above, the Court **RECOMMENDS THAT:** this action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.

Dated: August 11, 2023 ____s/David T. Schultz_____ DAVID T. SCHULTZ U.S. 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. m objections within 14 days after being served a copy of the objections. See Local

Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).

