



Brinkman v. Pertler et al

2022 | Cited 0 times | D. Minnesota | October 6, 2022

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

Sean Brinkman, Case No. 15-cv-0571 (WMW/TNL) Plaintiff, ORDER v. Thomas Pertler, Jesse Bergland, Nicole Eggert, Kelly Lake, Dale Wolf, Matthew Benfield, Moose Lake Chief of Police, Brian Ninneman, Robert Rose, Julie Rose, Debbie Thao, Terry Aldrich, Peter Puffer, Yvette Anderson, Gene Anderson, Kevin Moser, Troy Basaraba, Ann Zimmerman, Scott Benoit, Kevin Carlson, Terry Kneisal, Lucinda Jesson, Janine Hebert, Dr. Tom Lundquist, Diana Maagard, Kent Stewart, Beth Virden, Connie Proctor, Nancy Johnston, and Mark Dayton, Defendants.

This matter was stayed in 2015 pending the resolution of Karsjens v. Minnesota Department of Human Services, No. 11-cv-3659 (DWF/TNL). Judgment has now been entered in Karsjens and, accordingly, the stay of this matter has now been lifted. Prior to the lifting of the stay, Plaintiff Sean Brinkman was twice directed to provide notice of his intent to continue prosecuting this proceeding. In the second of those two orders, the Court directed Brinkman to inform the Court of his intent to prosecute this matter within 21 days, failing which this matter would be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

CASE 0:15-cv-00571-WMW-TNL Doc. 13 Filed 10/06/22 Page 1 of 2

2

That deadline has now passed, and Brinkman has not responded to the Court's orders directing him to provide notice of his intent to prosecute. Accordingly, this Court dismisses this action without prejudice under Federal Rule of Civil Procedure 41(b) for failure to prosecute. See *Henderson v. Renaissance Grand Hotel*, 267 F. 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."). Brinkman's application to proceed in forma pauperis, filed at the commencement of this action, is denied as moot in light of the dismissal without prejudice for failure to prosecute. Based on the foregoing analysis, and all of the files, records and proceedings herein, IT IS HEREBY ORDERED THAT:

1. This matter is DISMISSED WITHOUT PREJUDICE for failure to prosecute. 2. The application to proceed in forma pauperis, (Dkt. 2), is DENIED AS



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MOOT. LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: October 6, 2022

s/Wilhelmina M. Wright Wilhelmina M. Wright United States District Judge CASE
0:15-cv-00571-WMW-TNL Doc. 13 Filed 10/06/22 Page 2 of 2

