

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

THOMAS ROBERT HELMAN,)	CIVIL ACTION NO. 1:21-CV-1058
Plaintiff)	
)	(RAMBO, D.J.)
v.)	
)	(ARBUCKLE, M.J.)
GARRETT GLASSER,)	
Defendant)	

REPORT AND RECOMMENDATION

Thomas Helman filed a Complaint seeking money damages in connection with an alleged civil rights violation. However, I denied Mr. Helman’s Motion for Leave to Proceed *In Forma Pauperis* (“IFP Motion”). I gave him a deadline to either submit a new IFP Motion or to pay the filing fee. When that deadline came and passed, I gave him an extension. The extended deadline has now passed, and Mr. Helman has failed to file a new IFP Motion or pay the filing fee. Therefore, I RECOMMEND that:

- (1) Thomas Helman’s Complaint (Doc. 1) be DISMISSED WITHOUT PREJUDICE due to his failure to pay the filing fee or file a new Motion for Leave to Proceed *In Forma Pauperis*.
- (2) Mr. Helman’s Motion to Appoint Counsel (Doc. 3) be DENIED as MOOT.
- (3) The Clerk of Court be DIRECTED to CLOSE this case.

I. DISCUSSION

On June 16, 2021, Thomas Helman (Mr. Helman or “Plaintiff”) started this action by lodging a Complaint, (Doc. 1), and a Motion for Leave to Proceed *In Forma Pauperis* (Doc. 4). In his Complaint, he alleges that on August 1, 2020, Pennsylvania State Trooper Garrett Glasser detained him and searched his vehicle without probable cause and/or reasonable suspicion. (Doc. 1, pp. 4-5). Mr. Helman was subsequently charged with, *inter alia*, driving under the influence. (Doc. 1-1, p. 1).¹ However, the Commonwealth moved to have the charges nolle prossed because “the affiant [(Trooper Glasser)] lacked probable cause and reasonable suspicion to pull over the defendant . . . [and] the Commonwealth concedes that all evidence would likely be suppressed at the conclusion of [a] scheduled suppression hearing.” (Doc. 1-1, p. 3).

On October 6, 2021, I denied Mr. Helman’s IFP Motion because he had adequate savings to pay the filing fee. (Doc. 11). I gave him until October 27, 2021 to either file a new IFP Motion or to pay the filing fee. (*Id.*).

When I noticed that Mr. Helman had not responded to the Court by the October 27, 2021 deadline, I issued an Order that extended the deadline for Mr.

¹ Plaintiff’s exhibit does not have page numbers, so I will refer to the page numbering on the upper right-hand corner that is superimposed on all CM/ECF electronic filings.

Helman to either file a new IFP Motion or to pay the filing fee to December 15, 2021. (Doc. 12). As of the date of this Report and Recommendation, Plaintiff has done neither.

Dismissal without prejudice is appropriate where a litigant fails to file an appropriate motion seeking leave to proceed *in forma pauperis* or pay the filing fee. *See Lindsey v. Roman*, 408 F. App'x 530, 532-22 (3d Cir. 2010) (affirming a District Court's dismissal of a *pro se* litigant's complaint where the litigant did not pay the fee or submit the appropriate forms in support of his application to proceed *in forma pauperis*); *Parker v. Harrisburg City*, No. 1:17-CV-653, 2017 WL 3015880, at *2 (M.D. Pa. June 7, 2017) *report and recommendation adopted by* 2017 WL 3008583 (M.D. Pa. July 14, 2017).

[The next page contains the Recommendation]

Accordingly, I RECOMMEND:

- (1) Thomas Helman's Complaint (Doc. 1) be DISMISSED WITHOUT PREJUDICE due to his failure to pay the filing fee or file a new Motion for Leave to Proceed *In Forma Pauperis*.
- (2) Mr. Helman's Motion to Appoint Counsel (Doc. 3) be DENIED as MOOT.
- (3) The Clerk of Court be DIRECTED to CLOSE this case.

Date: December 21, 2021

BY THE COURT

s/William I. Arbuckle
William I. Arbuckle
U.S. Magistrate Judge

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NOTICE OF LOCAL RULE 72.3

NOTICE IS HEREBY GIVEN that any party may obtain a review of the Report and Recommendation pursuant to Local Rule 72.3, which provides:

Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within fourteen (14) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however, need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses, or recommit the matter to the magistrate judge with instructions.

Date: December 21, 2021

BY THE COURT
s/William I. Arbuckle
William I. Arbuckle
U.S. Magistrate Judge