

**United States Court of Appeals  
FOR THE EIGHTH CIRCUIT**

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No. 10-1210

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DeMun D. Walker,

Appellant,

v.

Galbreth, COII; Higgenbotham,  
COI; McCormack, COI; Neff, COI;  
Nowcha, COI; Heyer, COI, Stickler,  
COI; Abel, COI; Williams, COI;  
Siefier, COI; Lewis, COI; Wilson,  
COI; Mueller, COI; R. Mobly,  
CCW; J. Ellis, FUM; Jefferson City  
Correctional Center; Mike Kemna;  
Robin Thorne,

Appellees.

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\* Appeal from the United States  
\* District Court for the Western  
\* District of Missouri.

[UNPUBLISHED]

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Submitted: June 30, 2010  
Filed: July 12, 2010

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Before LOKEN, BYE, and SHEPHERD, Circuit Judges.

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PER CURIAM.

Missouri inmate DeMun Walker appeals the district court's<sup>1</sup> dismissal of his 42 U.S.C. § 1983 complaint without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with a court order. Upon careful review, we conclude that the district court did not abuse its discretion in dismissing Walker's complaint, because the record shows that after the magistrate issued an order assessing an initial partial filing fee based on Walker's inmate account statement and directing Walker to authorize the payment, Walker merely objected to the fee, stated that it was "non-tenable," and indicated that he did not want to pay it. See Smith v. Gold Dust Casino, 526 F.3d 402, 404-05 (8th Cir. 2008) (Rule 41(b) dismissal is reviewed for abuse of discretion); see also Cosby v. Meadors, 351 F.3d 1324, 1327 (10th Cir. 2003) (if prisoner has means to pay partial filing fee and fails to do so, district court may dismiss action under Rule 41(b) for failure to comply with court order); Burgs v. Sissel, 745 F.2d 526, 528 (8th Cir. 1984) (per curiam) (court may sua sponte dismiss action if plaintiff fails to comply with court order).

Accordingly, we deny the pending motions, and we affirm. See 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Scott O. Wright, United States District Judge for the Western District of Missouri, adopting the report and recommendations of the Honorable William A. Knox, United States Magistrate Judge for the Western District of Missouri, now retired.