



After reviewing the amended complaint, the magistrate recommended dismissal pursuant to section 1915(d). Without mentioning Sikora's payment of the partial filing fee, the magistrate concluded that, as the claims in Sikora's amended complaint were frivolous and duplicative, his provisional IFP status should be revoked and his action dismissed. The district court adopted the magistrate's recommendation.

The district court acted improperly in ordering Sikora to pay a partial filing fee before determining whether his complaint was frivolous; after Sikora paid the court-ordered filing fee his complaint had to be treated as if it were a paid complaint. See In re: Funkhouser, 873 F.2d 1076, 1077 (8th Cir. 1989) (per curiam) (a court may not require plaintiff to first pay fee and then later dismiss complaint as frivolous).

Accordingly, we reverse and remand.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.