

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

KURTIS JOHN ZALOUDEK,

Plaintiff,

vs.

CIVIL ACTION
No. 10-3178-SAC

JOHNSON COUNTY ADULT DETENTION CENTER,

Defendant.

MEMORANDUM AND ORDER

This matter is a civil rights action filed pursuant to 42 U.S.C. § 1983. By an order entered on September 28, 2010, the court directed plaintiff to supply a copy of his institutional financial records in support of his application for leave to proceed in forma pauperis. The order was returned as undeliverable.

On October 28, 2010, the order was remailed to the plaintiff at a different address. Plaintiff was granted to and including November 12, 2010, and was advised the failure to file a timely response might result in dismissal of the matter without additional prior notice to him. There has been no response to that order.

A federal court has the inherent power to act sua sponte to

dismiss an action for failure to prosecute. *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962). Federal Rule of Civil Procedure 41(b) authorizes the involuntary dismissal of an action for failure to prosecute or to comply with procedural rules or orders of the court. While the text of Rule 41(b) contemplates such dismissal upon the motion of a defendant, the rule has been interpreted to allow the sua sponte dismissal of an action. *Link, id.*; *Rogers v. Andrus Transp. Services*, 502 F.3d 1147, 1151 (10th Cir. 2007).

The court finds plaintiff has failed to prosecute this action and has been given adequate notice of the court's intention to dismiss this matter for lack of prosecution.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed pursuant to Rule 41(b) for lack of prosecution.

IT IS FURTHER ORDERED plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) is denied.

A copy of this order shall be transmitted to the plaintiff.

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 23rd day of November, 2010.

S/ Sam A. Crow
SAM A. CROW
United States Senior District Judge