

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JAMES VAN HOUTEN,

Plaintiff,

vs.

CIVIL ACTION
No. 10-3214-SAC

RAYMOND ROBERTS, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is a civil action filed pursuant to 42 U.S.C. § 1983. By an order entered on November 23, 2010 (Doc. 3), the court directed plaintiff to file an amended complaint including a statement of facts in support of his claims for relief. Plaintiff was advised the failure to file a timely response would result in the dismissal of this matter without prejudice and without additional prior notice. Plaintiff has filed no response.

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 without prejudice for lack of prosecution.

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

IT IS SO ORDERED.

Dated at Topeka, Kansas, this 4th day of January, 2011.

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