

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CURTIS D. JONES,

Petitioner,

v.

CASE NO. 11-3030-RDR

(FNU)CHESTER

Warden, USP-Leavenworth,

Respondent.

O R D E R

On February 24, 2011, the court entered an Order granting Mr. Jones time in which submit the requisite financial information and to show cause why this action should not be dismissed for reasons stated therein. He was forewarned that if he failed to comply within the time allotted, this action could be dismissed without further notice. The time allotted has expired, and nothing further has been filed by Mr. Jones.

"Rule 41(b) authorizes a district court, upon a defendant's motion, to order the dismissal of an action for failure to prosecute as well as for failure to comply with the Federal Rules of Civil Procedure or 'a court order'." Young v. U.S., 316 Fed.Appx. 764, 771 (10th Cir. Mar. 12, 2009)(citing Fed.R.Civ.P. 41(b)). "This rule has been interpreted as permitting district courts to dismiss actions sua sponte when one of these conditions is met." Id. (citing Link v. Wabash R.R. Co., 370 U.S. 626, 630-31 (1962); Olsen v. Mapes, 333 F.3d 1199, 1204 n. 3 (10th Cir. 2003)).

"In addition, it is well established in this circuit that a district court is not obligated to follow any particular procedures when dismissing an action without prejudice under Rule 41(b). Id. at *6 (citations omitted). The court finds that this action must be dismissed, without prejudice, due to petitioner's failure to satisfy the filing fee prerequisite and to show cause why this action should not be dismissed.

IT IS THEREFORE BY THE COURT ORDERED that petitioner's motion to proceed in forma pauperis (Doc. 2) is denied, and this action is dismissed and all relief is denied, without prejudice.

IT IS SO ORDERED.

DATED: This 8th day of April, 2011, at Topeka, Kansas.

s/RICHARD D. ROGERS
United States District Judge