

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

GEORGE RAYMOND SPRY,

Plaintiff,

v.

CASE NO. 11-3190-SAC

COLETTE WINKELBAUER,

Defendant.

MEMORANDUM AND ORDER

This matter is a civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff, a prisoner in the custody of the Kansas Department of Corrections, proceeds pro se.

By its order of August 6, 2012, the court granted plaintiff to and including September 6, 2012, to submit the initial partial filing fee and to show cause why this matter should not be dismissed for the reasons set forth in that order. Plaintiff was advised that the failure to file a timely response might result in the dismissal of this matter without additional notice. Plaintiff has filed no response.

A court has the inherent power to dismiss an action for failure to prosecute in order to ensure the orderly and expeditious resolution of the cases on its docket. *Link v. Wabash Railroad Co.*, 370 U.S. 626, 630-31 (1962). Rule 41(b) of the Federal Rules of Civil Procedure provides, in part, "If the plaintiff ... fails ... to comply with [court] rules or a court order, a defendant may move to dismiss the action or any claim against it." The Tenth Circuit Court of Appeals has interpreted this rule "to permit courts to dismiss actions *sua sponte* for a plaintiff's failure to prosecute." *Olsen v. Mapes*, 333 F.3d 1199,

1204 n.3 (10th Cir. 2003). Having considered the record, the court concludes this matter may be dismissed due to plaintiff's failure to respond to the court's order of August 6, 2012.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed for lack of prosecution.

IT IS FURTHER ORDERED plaintiff's motion for leave to proceed in forma pauperis (Doc. 2) and motion for discovery (Doc. 5) are denied as moot.

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

IT IS SO ORDERED.

DATED: This 18th day of September 2012 at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge