

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ABRAM SADEAN WILLIAMS,

Plaintiff,

v.

CASE NO. 12-3136-SAC

GREG ARMSTRONG and CURTIS MOOSE,

Defendants.

O R D E R

This matter is a civil rights action filed pursuant to 42 U.S.C. § 1983. By its order entered on March 5, 2013, the court granted plaintiff to and including March 26, 2013, to supplement the record. Plaintiff was advised that the failure to file a timely response might result in the dismissal of this matter for failure to state a claim upon which relief may be granted.

On March 27, 2013, the copy of the order mailed to plaintiff was returned as undeliverable. Plaintiff has not provided a current address as required by the rules of the court. D. Kan. R. 5.1(c)(3).

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). Likewise, Rule 41(b) of the Federal Rules of Civil Procedure permits the involuntary dismissal of a matter for failure to prosecute or to comply with procedural rules or orders of the court. While the text of Rule 41(b) contemplates dismissal upon the motion of a defendant, that provision has been interpreted to allow the court to dismiss a matter sua sponte. *Link, id.*, *Rogers v. Andrus Transp. Services*, 502 F.3d 1147, 1151 (10th Cir. 2007). See also *Theede*

v. U.S. Department of Labor, 172 F.3d 1262 (10th Cir. 1999) (affirming dismissal where pro se plaintiff's failure to object to magistrate judge's recommendation of dismissal was due to plaintiff's failure to provide the court with a current address).

The court finds plaintiff has failed to prosecute this action and has been afforded adequate notice of the court's intention to dismiss this matter in the absence of a response from him. See D. Kan. R. 5.1 (c) (3) ("Any notice mailed to the last address of record of an attorney or pro se party is sufficient notice.")

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed for failure to state a claim upon which relief may be granted.

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

IT IS SO ORDERED.

DATED: This 2nd day of April, 2013, at Topeka, Kansas.

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