

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

HENRY CORNELL VIRGIL,

Plaintiff,

v.

CLARIDGE COURT,

Defendant.

Case No. 18-2446-CM-TJJ

MEMORANDUM AND ORDER

Pro se plaintiff Henry Cornell Virgil brings this action against defendant Claridge Court alleging employment discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e, *et seq.* Plaintiff filed his complaint in forma pauperis on August 27, 2018, and summons was executed on October 19, 2018. Defendant filed a Motion to Dismiss (Doc. 9) on November 13, 2018.

On December 13, 2018, defendant appeared at a scheduling conference in front of Magistrate Judge Teresa J. James. Plaintiff failed to appear and, when reached by telephone, indicated he did not intend to pursue the action. Judge James issued a show cause order (Doc. 14) on December 12, 2018 ordering plaintiff to show cause to this court as to why the case should not be dismissed for failure to prosecute. The show cause order was returned “unclaimed and unable to forward” on January 10, 2019.

Rule 41(b) of the Federal Rules of Civil Procedure authorizes the court to dismiss an action “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order.” Fed. R. Civ. P. 41(b); *see also Lamm v. Grubbs*, No. 11-3019-JAR (D. Kan. Jan. 24, 2012). Procedural rules apply equally to pro se litigants as they do any other litigant. *See Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005).

Plaintiff failed to appear at a scheduling conference and later indicated he did not intend to pursue this action. Plaintiff also failed to respond to defendant's motion to dismiss and the show cause order. For these reasons, the court dismisses this case under Rule 41(b) for failure to prosecute. Defendant's motion to dismiss is therefore denied as moot.

IT IS THEREFORE ORDERED that this case is dismissed for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedures.

IT IS FURTHER ORDERED that defendant's Motion to Dismiss (Doc. 9) is denied as moot.

This case is closed. The clerk of the court is directed to enter judgment in favor of defendant and against plaintiff.

Dated January 29, 2019, at Kansas City, Kansas.

s/ Carlos Murguia
CARLOS MURGUIA
United States District Judge