

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

**LEE ANDREW MITCHELL-  
PENNINGTON,**

**Plaintiff,**

**v.**

**DAVID FERRIS, et al.,**

**CASE NO. 18-3157-SAC**

**Defendants.**

**MEMORANDUM AND ORDER**

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. Plaintiff filed a motion for leave to proceed *in forma pauperis*. (Doc. 2.) On July 3, 2018, the Court entered an order (Doc. 3) granting Plaintiff's motion to proceed *in forma pauperis*, and assessed an initial partial filing fee of \$19.50. The Order provided that failure to pay the partial fee within fourteen days from receipt of the order "may result in the dismissal of this matter without further notice." To date, Plaintiff has not submitted the partial fee or filed an objection to the fee order.

On August 29, 2018, the Court entered an Order to Show Cause ("OSC"), granting Plaintiff until September 14, 2018, in which to show good cause why this action should not be dismissed for failure to comply with Court orders. Plaintiff has failed to respond by the Court's deadline.

Rule 41(b) of the Federal Rules of Civil Procedure "authorizes a district court, upon a defendant's motion, to order the dismissal of an action for failure to prosecute or for failure to comply with the Federal Rules of Civil Procedure or 'a court order.'" *Young v. U.S.*, 316 F. App'x 764, 771 (10th Cir. 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).” *Young*, 316 F. App’x at 771–72 (citations omitted).

The time for Plaintiff to pay the initial partial filing fee has passed without any response from Plaintiff. Plaintiff has also failed to respond to the Court’s OSC. As a consequence, the Court dismisses this action without prejudice pursuant to Rule 41(b) for failure to comply with court orders.

**IT IS THEREFORE ORDERED THAT** this action is **dismissed without prejudice** pursuant to Rule 41(b) for failure to comply with court orders.

**IT IS SO ORDERED.**

**Dated in Topeka, Kansas, on this 21st day of September, 2018.**

**s/ Sam A. Crow**  
**Sam A. Crow**  
**U.S. Senior District Judge**