

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

**JEREMY MICHAEL PENLAND,**

**Plaintiff,**

**v.**

**CASE NO. 18-3176-SAC**

**FRANKLIN COUNTY DETENTION CENTER,**

**Defendant.**

**ORDER OF DISMISSAL**

This matter is a civil rights action filed under 42 U.S.C. §1983. Plaintiff proceeds pro se and seeks leave to proceed in forma pauperis. On July 24, 2018, the Clerk of the Court entered a notice of deficiency advising plaintiff that he must submit a certified financial statement to support his application to proceed in forma pauperis. See 28 U.S.C. § 1915(a)(2). The notice provided thirty days to submit the material and advised plaintiff that the failure to comply might result in the dismissal of this matter without additional notice. Plaintiff failed to respond.

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 (10<sup>th</sup> 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 (10<sup>th</sup> 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).

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice under Rule 41(b) due to plaintiff’s failure to respond to the notice of deficiency.

IT IS FURTHER ORDERED plaintiff’s motion to proceed in forma pauperis (Doc. #2) is denied as moot.

**IT IS SO ORDERED.**

DATED: This 19th day of October, 2018, at Topeka, Kansas.

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