

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

ARTHUR D. MITCHELL,

Plaintiffs,

v.

CASE NO. 18-3196-SAC

**KANSAS CITY, KANSAS
POLICE DEPARTMENT,
et al.,**

Defendants.

ORDER

On August 3, 2018, Plaintiff Arthur D. Mitchell filed this *pro se* civil rights case under 42 U.S.C. § 1983. On August 7, 2018, the Clerk entered a Notice to Plaintiff (Doc. 2), informing Plaintiff that his Complaint was deficient because it was not on the Court-approved forms as required by D. Kan. Rule 9.1(a). The Notice also informed Plaintiff that he had failed to either pay the \$400 filing fee for this case or to file a motion to proceed without prepayment of fees. The Notice included the Court-approved form for filing a complaint and a form for filing a motion to proceed without prepayment of fees. The Notice further provided that failure to correct the deficiencies by September 6, 2018, may result in dismissal of this case without prejudice and without further notice. Plaintiff has failed to cure the deficiencies within the allowed time.

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 submit a complaint on Court-approved forms and to either pay the filing fee or submit a motion to proceed without prepayment of fees has passed without any response from Plaintiff. 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 BY THE COURT ORDERED that this action is **dismissed without prejudice** pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

Dated on this 18th day of September, 2018, in Topeka, Kansas.

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