

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

SALEEM EL-AMIN,

Plaintiff,

v.

CASE NO. 19-3091-SAC

N.C. ENGLISH,

Defendant.

ORDER OF DISMISSAL

This matter is a civil action filed by a prisoner in federal custody. Plaintiff commenced this action as a petition for habeas corpus under 28 U.S.C. § 2241. Because he challenges the conditions of his confinement at the United States Penitentiary, Leavenworth, the Court advised him that such a challenge must proceed in a civil rights action and directed him to complete a form complaint or to advise the Court if he did not wish to proceed in this matter.

Plaintiff submitted the complaint as directed. The Court then addressed plaintiff's motion to proceed in forma pauperis, found plaintiff is subject to the three-strikes provision found in 28 U.S.C. § 1915(g), and directed plaintiff to submit the \$400.00 filing fee by June 12, 2020. Plaintiff failed to submit the fee as directed.

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).

Because plaintiff has failed to submit the filing fee as directed, the Court will dismiss this matter without prejudice.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice.

IT IS SO ORDERED.

DATED: This 15th day of June, 2020, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. District Judge