

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

**PATRICK C. LYNN,**

**Plaintiff,**

**v.**

**CASE NO. 19-3117-JAR**

**CHARLIE WILLNAUER, et al.,**

**Defendants.**

**ORDER**

Plaintiff, Patrick C. Lynn, brings this pro se civil rights case under 42 U.S.C. § 1983. Plaintiff is incarcerated at the Lansing Correctional Facility in Lansing, Kansas. On August 1, 2019, the Court entered an Order (Doc. 10) denying Plaintiff's motion for leave to proceed in forma pauperis (Doc. 4), and denying Plaintiff's Motion for Filing Fee Waiver Based on Imminent Dangers of Serious Physical Injury (Doc. 3–1). The Order required Plaintiff, who is a three-strikes litigant, to submit the \$400.00 filing fee by August 19, 2019, and notified him that his failure to pay the full filing fee within the allowed time will result in the dismissal of this action without prejudice. Plaintiff filed a Notice of Interlocutory Appeal (Doc. 13) on August 9, 2019. On August 16, 2019, the Court entered an Order (Doc. 16) declining to certify Plaintiff's interlocutory appeal and stating that "[t]he Court warns Plaintiff that this matter is not automatically stayed by an interlocutory appeal. Thus, the time set by the Court for Plaintiff to pay the district court filing fee in full or suffer dismissal of this case is unchanged." (Doc. 16, at 3.) Plaintiff has failed to pay the filing fee 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).

Plaintiff has failed to submit the filing fee by the Court’s deadline. 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 FURTHER ORDERED** that Plaintiff’s pending motions (Docs. 5, 6, 7, 8, and 17) are **denied** as moot.

**IT IS SO ORDERED.**

**Dated on this 21<sup>st</sup> day of August 2019, in Kansas City, Kansas.**

**s/ Julie A. Robinson**  
**JULIE ROBINSON**  
**Chief U. S. District Judge**