

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHARLES SMITH,

Petitioner,

v.

CASE NO. 19-3131-SAC

UNITED STATES DISTRICT COURT,

Respondent.

ORDER OF DISMISSAL

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2241 by a person undergoing treatment at the Larned State Hospital. On December 31, 2019, the Court entered an Order to Show Cause (OSC) directing petitioner to show cause on or before January 13, 2020, why this matter should not be dismissed. The OSC identified several deficiencies, including petitioner's failure to comply with the Court's order entered October 18, 2019, directing him to submit the petition on a court-approved form. The OSC also found that petitioner seeks relief in this action that is not available in habeas corpus and that he is pursuing a separate civil rights action. Petitioner has 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 (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 petitioner has failed to comply with orders of the Court and for the reasons set out in the OSC, the Court will dismiss this matter.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed.

IT IS SO ORDERED.

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

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