

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

TONY ALLEN HARDESTY, JR.,

Plaintiff,

v.

CASE NO. 19-3155-SAC

MATTHEW NESLSON, et al.,

Defendants.

ORDER

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. On August 20, 2019, the Court entered a Notice of Deficiency (Doc. 2) granting Plaintiff until September 19, 2019, to submit his complaint on the court-approved form, and to pay the filing fee or submit a motion to proceed without prepayment of fees. Plaintiff has not complied with the Notice of Deficiency by the 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 comply with the Notice of Deficiency by the deadline. Therefore, this case is dismissed without prejudice pursuant to Rule 41(b).

IT IS THEREFORE ORDERED THAT this matter is dismissed without prejudice under Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

Dated in Topeka, Kansas, on this 25th day of September, 2019.

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