

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

JAMES C. STRADER,

Plaintiff,

v.

STATE OF KANSAS, ET AL.,

Defendants.

Case No. 19-CV-03218-HLT

MEMORANDUM & ORDER

This matter is a civil rights action filed under 42 U.S.C. § 1983 by a prisoner in state custody. By its order of May 8, 2020, the Court directed plaintiff to submit the \$2.00 initial partial filing fee as previously ordered or to show cause why this matter should not be dismissed due to his failure to submit the fee as directed. Plaintiff also was ordered to submit a certified financial statement showing his account balance. The order set a deadline of May 28, 2020.

On May 14, 2020, plaintiff filed materials that did not comply with the order. On May 18, 2020, the Court entered an order directing plaintiff how to correct the submission and stating that the deadline remained May 28, 2020. Plaintiff has submitted additional materials that are not responsive to the order, but he has not provided the financial materials ordered by the Court.

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 respond to the Court’s order, this matter will be dismissed without prejudice.

THE COURT THEREFORE ORDERS that this matter is dismissed without prejudice under Rule 41(b).

THE COURT FURTHER ORDERS that plaintiff’s motion for leave to proceed in forma pauperis (Doc. 2) is denied without prejudice.

IT IS SO ORDERED.

Dated: June 5, 2020

/s/ Holly L. Teeter
HOLLY L. TEETER
UNITED STATES DISTRICT JUDGE