

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

RONALD TITLBACH,

Petitioner,

v.

CASE NO. 20-3014-JWL

UNITED STATES OF AMERICA,

Respondent.

ORDER TO SHOW CAUSE

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2241. Petitioner, a prisoner in federal custody at USP-Leavenworth (“USPL”), proceeds *pro se*. On January 13, 2020, the Court entered a Notice of Deficiency (Doc. 2) to Petitioner that described deficiencies in his habeas corpus application and ordered Petitioner to cure those deficiencies on or before February 12, 2020. The Notice advised Petitioner that he failed to either pay the \$5 statutory filing fee or to submit a motion to proceed *in forma pauperis*. Petitioner was warned that if he failed to comply within the prescribed time, this action could be dismissed without further notice for failure to comply with the Court’s order. The time in which Petitioner was required to comply has expired, and he has failed to cure the deficiency.

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).

Petitioner has failed to cure the deficiency in his habeas corpus application by either paying the statutory filing fee of \$5.00 or submitting a motion to proceed *in forma pauperis*. See 28 U.S.C. § 1914. Petitioner must show good cause why his Petition should not be dismissed without prejudice pursuant to Rule 41(b) for failure to comply with the Court’s order.

IT IS THEREFORE ORDERED BY THE COURT that Petitioner is granted until **February 28, 2020**, in which to show good cause why his Petition should not be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

Dated February 13, 2020, in Kansas City, Kansas.

S/ John W. Lungstrum
JOHN W. LUNGSTRUM
UNITED STATES DISTRICT JUDGE