

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

**PATRICK C. LYNN,**

**Plaintiff,**

**v.**

**CASE NO. 20-3046-KHV**

**ARAMARK, INC., et al.,**

**Defendants.**

**ORDER**

Plaintiff, Patrick C. Lynn, is a state prisoner housed at Hutchinson Correctional Facility in Hutchinson, Kansas (“HCF”). Plaintiff filed this § 1983 action against 31 defendants, primarily alleging that he has not received the correct diet for his medical conditions.

The Court entered an Order (ECF No. 7) denying Plaintiff’s motion to proceed *in forma pauperis*, finding Plaintiff is subject to the “three-strikes” provision under 28 U.S.C. § 1915(g). The Court examined the Complaint and attachments, as well as Plaintiff’s motion, and found no showing of imminent danger of serious physical injury. The Court also granted Plaintiff until March 31, 2020, to submit the \$400.00 filing fee and extended the deadline to April 30, 2020, upon Plaintiff’s motion. *See* ECF No 9. The Court’s Order provided that “[t]he failure to submit the fee by that date will result in the dismissal of this matter without prejudice and without additional prior notice.” (ECF No. 9.) Plaintiff has failed to pay the filing fee by the deadline set forth in the Order.

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).

The time in which Plaintiff was required to submit the filing fee has passed without a response from Plaintiff. As a consequence, the Court dismisses this action without prejudice pursuant to Rule 41(b) for failure to comply with court orders. All pending motions filed by Plaintiff are denied as moot.

**IT IS THEREFORE ORDERED BY THE COURT** that this action is dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b).

**IT IS FURTHER ORDERED** that all pending motions are **denied** as moot.

**IT IS SO ORDERED.**

**Dated on this 5<sup>th</sup> day of May, 2020, in Kansas City, Kansas.**

**s/ Kathryn H. Vratil**  
**KATHRYN H. VRATIL**  
**U. S. District Judge**