

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

KEVIN L. OUELLETTE,

Plaintiff,

v.

CASE NO. 20-3134-SAC

JERRY MONTAGNE, et al.,

Defendants.

ORDER TO SHOW CAUSE

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. On May 20, 2020, the Court entered an Order (Doc. 3) granting Plaintiff’s motion for leave to proceed *in forma pauperis*, and assessing an initial partial filing fee of \$11.00, calculated under 28 U.S.C. § 1915(b)(1). The Order granted Plaintiff fourteen days from receipt of the Order to submit the fee or to file an objection to the Order. To date, Plaintiff has not submitted the initial partial filing fee and has not filed an objection to the Court’s Order.

The Order provides that “[t]he failure to pay the fee as directed may result in the dismissal of this matter without further notice.” (Doc. 3.) 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 submit the initial partial filing fee or to object to the Court’s Order within the allowed time. Therefore, Plaintiff should show good cause why this case should not be dismissed without prejudice pursuant to Rule 41(b).

IT IS THEREFORE ORDERED THAT Plaintiff is granted until **July 10, 2020**, in which to show good cause, in writing, to the Honorable Sam A. Crow, United States District Judge, why this action should not be dismissed without prejudice pursuant to Rule 41(b) for failure to comply with court orders.

IT IS SO ORDERED.

Dated June 10, 2020, in Topeka, Kansas.

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