

**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

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. On June 10, 2020, the Court entered an Order to Show Cause (Doc. 4), granting Plaintiff until July 10, 2020, to show good cause why this case should not be dismissed without prejudice pursuant to Rule 41(b) for failure to pay the initial fee. Plaintiff has not responded to the Court’s Order to Show Cause and has failed to submit the initial partial filing fee.

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 and has failed to respond to the Court’s Order to Show Cause why this case should not be dismissed without prejudice pursuant to Rule 41(b).

IT IS THEREFORE ORDERED THAT this case is **dismissed without prejudice** pursuant to Rule 41(b) for failure to comply with court orders.

IT IS SO ORDERED.

Dated July 14, 2020, in Topeka, Kansas.

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