

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

MICHAEL JACKSON,

Petitioner,

v.

CASE NO. 20-3189-JWL

CLAUDE MAYE,

Respondent.

ORDER

This matter is a habeas corpus action filed under 28 U.S.C. § 2241. Mr. Jackson filed a petition on July 6, 2020 in the United States District Court for the Western District of Missouri. The case was transferred to the District of Kansas on July 16, 2020. On the same day, the Court issued a notice of deficiency (ECF No. 5) ordering Petitioner to file a motion seeking leave to proceed in forma pauperis or pay the filing fee. In response, Petitioner filed a motion for leave to proceed in forma pauperis on July 23, 2020 (ECF No. 6). The Court denied his motion, finding he had sufficient assets to pay the \$5.00 filing fee and therefore did not qualify to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (*See* ECF No. 7.) The deadline for Petitioner to pay the filing fee was August 7, 2020. Petitioner has not paid the fee or otherwise responded to 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).

Petitioner has failed to comply with the Court’s order within the allowed time. Therefore, the Court concludes this matter may be dismissed without prejudice pursuant to Rule 41(b).

IT IS THEREFORE ORDERED that this matter is **dismissed without prejudice** pursuant to Fed. R. Civ. P. 41(b) for failure to comply with a court order.

IT IS SO ORDERED.

DATED: This 21st day of August, 2020, at Topeka, Kansas.

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