

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

GABRIEL T. WALLER,

Plaintiff,

v.

CASE NO. 21-3022-SAC

SARAH JAMES, et al.,

Defendants.

ORDER OF DISMISSAL

This matter is a civil rights action filed under 42 U.S.C. § 1983. On January 21, 2021, the clerk of the court entered a notice of deficiency (NOD) regarding plaintiff's motion for leave to proceed in forma pauperis. On January 22, 2021, the court issued a notice and order to show cause (NOSC) directing plaintiff to show cause why this matter should not be dismissed due to its filing outside the two-year limitation period. Plaintiff submitted a supplement to the motion to proceed in forma pauperis, and the court granted the motion.

However, the NOSC was returned on February 17, 2021, as undeliverable. Plaintiff has failed to provide the clerk of the court with a current address, as required by the rules of the court. D. Kan. R. 5.1(c)(3) (requiring each attorney or pro se party to notify the clerk in writing of a change of address or telephone number).

Because plaintiff has failed to supply a current address and has not responded to the NOSC, the court will dismiss this matter. Under Rule 41(b) of the Federal Rules of Civil Procedure, a court may dismiss an action for failure to prosecute or for a 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).

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice under Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

DATED: This 23rd day of February, 2021, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge