

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

MARQUIS WELLINGTON,

Plaintiff,

v.

CASE NO. 21-3040-SAC

SALINE COUNTY JAIL,

Defendant.

ORDER TO SHOW CAUSE

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. On February 9, 2021, the Court entered a Notice of Deficiency (Doc. 2), directing Plaintiff to resubmit his Complaint on the court-approved form due to a missing page on his original complaint; and to either pay the filing fee or submit a motion for leave to proceed *in forma pauperis*. Plaintiff resubmitted his Complaint, but has failed to either pay the filing fee or submit a motion for leave to proceed *in forma pauperis* by the Court’s March 11, 2021 deadline. The Notice provides that “[i]f you fail to comply within the prescribed time, the Judge presiding over your case will be notified of your non-compliance, and this action may be dismissed without further notice for failure to comply with this court order.” (Doc. 2, at 1.)

Plaintiff is ordered to show good cause why this action should not be dismissed without prejudice pursuant to Rule 41(b) for failure to comply with court orders. 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 filing fee or a motion for leave to proceed *in forma pauperis* 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 **March 31, 2021**, 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 March 15, 2021, in Topeka, Kansas.

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