

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

**JAMAHAL FOUNTAIN,**

**Plaintiff,**

**v.**

**CASE NO. 21-3041-SAC**

**JEFF ZMUDA, et al.,**

**Defendants.**

**ORDER TO SHOW CAUSE**

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. On March 2, 2021, the Court entered an Order (Doc. 5) granting Plaintiff’s motion for leave to proceed *in forma pauperis*, and assessing an initial partial filing fee of \$1.00, calculated under 28 U.S.C. § 1915(b)(1). The Order granted Plaintiff until March 16, 2021, in which 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. 5.)

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 **April 2, 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 19, 2021, in Topeka, Kansas.**

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