

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

**CORNELL HURLEY, JR.,**

**Petitioner,**

v.

**CASE NO. 21-3114-JWL**

**(FNU) JOHNSTON, Colonel,  
USDB-Leavenworth,**

**Respondent.**

**ORDER TO SHOW CAUSE**

This matter is a petition for habeas corpus filed under 28 U.S.C. § 2241. Petitioner is confined at the United States Disciplinary Barracks in Fort Leavenworth, Kansas. Petitioner challenges his disciplinary proceedings before the Disciplinary and Adjustment Board. On May 11, 2021, the Court entered an Order to Show Cause (Doc. 3 ) (“OSC”) granting Petitioner until May 28, 2021 in which to submit a signed petition. The Court noted in the OSC that Petitioner failed to sign the Petition as required by the Court’s Local Rules. *See* D. Kan. Rules 5.1(b) and 9.1(a)(1). Petitioner has failed to comply with the Court’s OSC by supplying a signed petition by the Court’s deadline.

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 submit a signed petition within the allowed time. Therefore, Petitioner should show good cause why this case should not be dismissed without prejudice pursuant to Rule 41(b). Failure to respond by the deadline may result in dismissal without further notice.

**IT IS THEREFORE ORDERED BY THE COURT** that Petitioner is granted until **June 21, 2021**, in which to show good cause why this case should not be dismissed without prejudice under Fed. R. Civ. P. 41(b).

**IT IS FURTHER ORDER** that the deadline for Respondent to show cause why the writ should not be granted is extended to **July 6, 2021**; that the deadline for Petitioner to file a traverse thereto, admitting or denying under oath all factual allegations therein contained, is extended to **August 6, 2021**,

**IT IS SO ORDERED.**

**Dated June 3, 2021, in Kansas City, Kansas.**

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