

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JASON ALAN JUSTICE,

Plaintiff,

v.

CASE NO. 21-3260-SAC

JULIE A. ROBINSON, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is a civil rights action filed under 42 U.S.C. § 1983 by a prisoner in state custody. The court initially granted plaintiff until December 15, 2021, to submit the filing fee and an amended complaint. The court later extended the time to January 18, 2022. Plaintiff has not paid the fee or filed a response¹.

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

¹ The court's order directing an amended complaint advised plaintiff that the amended complaint must have the case number of this action on the cover page. On January 12, 2022, plaintiff submitted a complaint naming the undersigned as a defendant and other defendants. That complaint did not contain a case number and was opened as a new action, Case No. 22-3009-EFM.

dismissing an action *without prejudice* under Rule 41(b).” *Young*,
316 F. App'x at 771-72 (citations omitted).

The court will dismiss this matter without prejudice.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed
without prejudice.

DATED: This 21st day of January, 2022, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge