

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

CHRISTOPHER JAY BONEWELL,

Plaintiff,

v.

CASE NO. 22-3052-SAC

EL DORADO CORRECTIONAL FACILITY,

Defendant.

ORDER OF DISMISSAL

This matter is a civil rights action filed under 42 U.S.C. § 1983 by a prisoner in state custody.

On March 18, 2022, the clerk of the court entered a notice of deficiency (NOD) advising plaintiff that he must supply financial information in support of his application for leave to proceed in forma pauperis, and on March 24, 2022, the court entered a Notice and Order to Show Cause (NOSC), advising plaintiff of deficiencies in the complaint and granting him to and including April 25, 2022, to file an amended complaint. Plaintiff was advised the failure to file a timely response might result in the dismissal of this matter without additional notice. There has been no response to the NOD or the NOSC.

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).

Because plaintiff has failed to prosecute this action, the court will dismiss this matter without prejudice.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice under Fed. R. Civ. P. 41(b).

IT IS FURTHER ORDERED plaintiff's motion to proceed in forma pauperis (Doc. 2) and motion to appoint counsel (Doc. 3) are denied as moot.

IT IS SO ORDERED.

DATED: This 29th day of April, 2022, at Topeka, Kansas.

S/ Sam A. Crow

SAM A. CROW

U.S. Senior District Judge