

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

CLEVELAND LAVELL LEE,

Plaintiff,

v.

CASE NO. 22-3090-SAC

BUTLER & ASSOCIATES, P.A., et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff Cleveland Lavell Lee is a state prisoner housed at Lansing Correctional Facility in Lansing, Kansas. Plaintiff filed this § 1983 action against Butler & Associates, P.A.; David M. Braun, Zachary A. King, and Kansas District Judge Robert J. Flemings, alleging that they participated in an illegal scheme to extort or embezzle money from him.

The Court entered an Order (Doc. 4) denying Plaintiff's motion to proceed *in forma pauperis*, finding Plaintiff is subject to the "three-strikes" provision under 28 U.S.C. § 1915(g). The Court examined the complaint and attachments and found no showing of imminent danger of serious physical injury. The Court also granted Plaintiff until June 13, 2022, to submit the \$402.00 filing fee. The Court's order provided that "[t]he failure to submit the fee by that date will result in the dismissal of this matter without prejudice and without additional prior notice." (Doc. 4, at 2.) Two weeks have passed since the deadline set forth in the order and Plaintiff has failed to pay the full \$402.00 filing fee.

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).

The time in which Plaintiff was required to submit the filing fee has passed without Plaintiff doing so. As a consequence, the Court dismisses this action without prejudice pursuant to Rule 41(b) for failure to comply with court orders.

IT IS THEREFORE BY THE COURT ORDERED that this action is **dismissed without prejudice** pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

Dated on this 29th day of June, 2022, in Topeka, Kansas.

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