FILED
U.S. District Court
District of Kansas
10/09/2026
Clerk, U.S. District Court
By: SND Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

BENJAMIN A. EDWARDS,

Plaintiff,

v. **CASE NO. 26-3325-JWL**

(FNU) CLEAVER, et al.,

Defendants.

MEMORANDUM AND ORDER

Plaintiff filed this pro se civil rights case under 42 U.S.C. § 1983. Plaintiff is confined at the Lansing Correctional Facility in Lansing, Kansas. On August 31, 2026, the Court issued a notice of deficiency (Doc. 2) ("NOD") ordering Plaintiff to either pay the filing fee or submit a motion to proceed without prepayment of fees. The NOD provides that the failure to comply by September 30, 2026, may result in the dismissal of this matter without further notice. *Id*. at 2. Plaintiff has not filed a response as of the date of this Order.

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. United States*, 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 comply with the NOD by the Court's deadline. Therefore, Plaintiff's Complaint is dismissed without prejudice pursuant to Rule 41(b).

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

IT IS SO ORDERED.

Dated October 9, 2026, in Kansas City, Kansas.

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