

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF KANSAS

MEJIA MORENO VENUTIANO,

Plaintiff,

vs.

CIVIL ACTION  
No. 08-3102-SAC

BUTLER COUNTY JAIL, et al.,

Defendants.

MEMORANDUM AND ORDER

By a Memorandum and Order entered on April 15, 2011, the court directed plaintiff to show cause on or before May 19, 2011, why this matter should not be dismissed for the reasons set forth therein.

The copy of the order mailed to plaintiff's last known address was returned as undeliverable, and there has been no response.

A federal court has the inherent power to act sua sponte to dismiss an action for failure to prosecute. *Link v. Wabash R. Co.*, 370 U.S. 626, 630-31 (1962). Federal Rule of Civil Procedure 41(b) authorizes the involuntary dismissal of an action for failure to prosecute or to comply with procedural rules or orders of the court. While the text of Rule 41(b)

contemplates such dismissal upon the motion of a defendant, the Rule has been interpreted to allow the sua sponte dismissal of an action. *Link, id.*; *Rogers v. Andrus Transp. Services*, 502 F.3d 1147, 1151 (10<sup>th</sup> Cir. 2007). See also *Theede v. U.S. Department of Labor*, 172 F.3d 1262 (10<sup>th</sup> Cir. 1999)(affirming dismissal where pro se plaintiff's failure to object to magistrate judge's recommendation of dismissal was due to plaintiff's failure to inform the court of his correct address).

The court finds plaintiff has failed to prosecute this action and has received adequate notice of the court's intention to dismiss this matter in the absence of a response.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed pursuant to Rule 41(b) for lack of prosecution.

A copy of this order shall be transmitted to the plaintiff.

**IT IS SO ORDERED.**

Dated at Topeka, Kansas, this 20<sup>th</sup> day of May, 2011.

S/ Sam A. Crow  
SAM A. CROW  
United States Senior District Judge