

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JAMES WILLIAMS,

Plaintiff,

v.

CASE NO. 12-3137-SAC

(FNU) JEHAN,

Defendant.

MEMORANDUM AND ORDER

This matter is a civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff commenced this action while incarcerated in the Kansas Department of Corrections.

By its order of July 24, 2012 (Doc. 8), the court directed plaintiff to show cause on or before August 24 why this matter should not be dismissed for failure to state a claim upon which relief may be granted. Plaintiff was advised the failure to file a timely response might result in the dismissal of this matter without additional prior notice.

The order mailed to plaintiff was returned for insufficient address on August 8, 2012 (Doc. 9) and was remailed on the same day. There has been no response to the order of July 24.

A court has the inherent power to dismiss an action for failure to prosecute in order to assure the orderly and expeditious resolution of the cases on its docket. *Link v. Wabash Railroad Co.*, 370 U.S. 626, 630-631 (1962). Rule 41(b) of the Federal Rules of Civil Procedure provides, in part, "If the plaintiff fails... to comply with [court] rules or a court order, a defendant may move to

dismiss the action or any claim against it." The Tenth Circuit Court of Appeals has interpreted this rule "to permit courts to dismiss actions *sua sponte* for a plaintiff's failure to prosecute." *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003). Having considered the record, the court concludes this matter may be dismissed due to plaintiff's failure to respond to the court's order of July 24, 2012.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice due to lack of prosecution.

IT IS FURTHER ORDERED plaintiff's motions to amend (Doc. 3), combined second motion for leave to proceed in forma pauperis, for issuance of summons, and motion to supplement (Doc. 4) and motion for issuance of summons (Doc. 6) are denied as moot.

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

IT IS SO ORDERED.

DATED: This 28th day of August, 2012, at Topeka, Kansas.

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