

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MAJESTY WADE,

Plaintiff,

v.

CASE NO. 16-3165-SAC-DJW

(FNU) WELLS, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is a civil rights action filed under 42 U.S.C. § 1983. On March 14, 2017, U.S. Magistrate Judge Waxse entered an order directing plaintiff to show cause on or before April 28, 2017, why this matter should not be dismissed for failure to state a claim for relief. Plaintiff has failed to file a response.

Under the Federal Rules of Civil Procedure, a federal district court may dismiss an action for failure to comply with a court order. Rule 41(b) states:

If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule - except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19 - operates as an adjudication on the merits.

Fed.R.Civ.P. 41(b).

Rule 41(b) has been interpreted to allow courts to dismiss actions sua sponte where a plaintiff fails to comply with a court order or with the rules of civil procedure. *Nasious v. Two Unknown B.I.C.E. Agents*, 492 F.3d 1158, 1161 n.2 (10th Cir. 2007) (quoting *Olsen v.*

Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003)).

Because plaintiff has failed to respond to the order entered by Magistrate Judge Waxse, the Court concludes this matter may be dismissed under Rule 41(b).

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

IT IS SO ORDERED.

DATED: This 5th day of May, 2017, at Topeka, Kansas.

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