

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

TRACY EUGENE MCKEE,
Plaintiff,

v.

CASE NO. 16-3202-SAC

FRANK DENNING, et al.,
Defendants.

ORDER

Plaintiff brings this *pro se* civil rights action pursuant to 42 U.S.C. § 1983. The Court granted Plaintiff leave to proceed in forma pauperis. Plaintiff asserts that his constitutional rights have been violated during the prosecution of state criminal charges in Johnson County and Wyandotte County. On January 12, 2018, the Court entered a Memorandum Order and Order to Show Cause (“MOSC”) (Doc. 9), giving Plaintiff until January 31, 2018, to show cause why his case should not be dismissed for the reasons set forth in the MOSC. Plaintiff has failed to respond to the MOSC within the allowed time.

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 show good cause why this action should not be dismissed for failure to state a claim has passed without a response from Plaintiff. 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 in Topeka, Kansas, on this 2nd day of February, 2018.

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