

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

**NORMAN EUGENE ORR,
KENT JOHNSON, and
IBRAHIM ALBURENI,**

Plaintiffs,

v.

CASE NO. 17-3112-SAC-DJW

IKE DYE, et al.,

Defendants.

ORDER

Plaintiffs Norman Eugene Orr, Kent Johnson and Ibrahim Albureni, are prisoners housed at the Montgomery County Jail in Independence, Kansas. Plaintiffs filed this *pro se* civil rights case under 42 U.S.C. § 1983. A Notice of Deficiency (“NOD”) was issued due to Plaintiffs’ failure to submit their complaint on court-approved forms and their failure to either pay the filing fee or file a motion for leave to proceed *in forma pauperis*. The deadline for curing the deficiencies was August 9, 2017. (Doc. 3.) Plaintiff Albureni has not responded to the NOD. Plaintiffs Orr and Johnson submitted their own complaints on court approved forms and filed motions for leave to proceed *in forma pauperis*. (Docs. 2, 4, 6 and 7.) On July 21, 2017, the Court entered an order (Doc. 8) granting Plaintiff Orr leave to proceed *in forma pauperis*, and assessing an initial partial filing fee of \$2.50. The Order provided that failure to pay the partial fee within fourteen days from receipt of the order “may result in the dismissal of this matter without further notice.” To date, Plaintiff Orr has not submitted the partial fee or filed an objection to the fee order. The Court entered another Notice of Deficiency to Plaintiff Johnson, because he failed to submit the financial information to support his motion for leave to proceed

in forma pauperis. (Doc. 9.) The Notice gave Plaintiff Johnson until August 21, 2017, to cure the deficiency. All of the Plaintiffs have failed to comply with the Court's deadlines.

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 for Plaintiffs to comply with the Court’s orders has passed without any response from Plaintiffs. 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 Plaintiff Kent Johnson’s motion for leave to proceed in forma pauperis (Doc. 5) is **denied**.

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

IT IS SO ORDERED.

Dated on this 23rd day of August, 2017, in Topeka, Kansas.

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