

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

EDGAR W. CLEVELAND,

Plaintiff,

v.

CASE NO. 21-3073-SAC

CHRISTOPHER BARRATTI, et al.,

Defendants.

ORDER

Plaintiff Edgar W. Cleveland filed this *pro se* § 1983 action against Detective Christopher Barratti, Officer Thomas Bangert, Comcare Case Manager Rebecca (Inu), and an unnamed “male counselor of Carolyn Sebbos.” (Doc. 1, p. 1.)

When Mr. Cleveland filed his complaint and his motion for leave to proceed *in forma pauperis* on March 10, 2021, he indicated that his return address was the Cherokee County Jail. *Id.* The envelope containing the complaint had a return address of the mailing address for the Cherokee County Jail. (Doc. 1-1.) Similarly, when Mr. Cleveland filed his motion to waive partial filing fee on March 25, 2021, the envelope containing the motion had a return address of the mailing address for the Cherokee County Jail. (Doc. 4-1.) Mr. Cleveland has filed nothing further in this case.

Mr. Cleveland does not appear on the Cherokee County Jail’s current in-custody list, and he has not provided the Court with his new address. Consequently, it appears Mr. Cleveland has failed to comply with rules of the Court which require every party, including a party proceeding *pro se*, to notify the Court in writing of a change of address. D. Kan. R. 5.1(c).

The Court issued a notice and order to show cause dated July 30, 2021 (Doc. 6) directing Plaintiff to provide his current address and show cause why this matter should not be dismissed without prejudice. Plaintiff has not responded to the order, and the copy of the order mailed to him was returned to the Court.

Under Rule 41(b) of the Federal Rules of Civil Procedure, a district court may dismiss an action “if the plaintiff fails to prosecute or to comply with these rules or a court order.” Fed. R. Civ. P. 41(b). After a review of the record, the Court concludes this matter should be dismissed pursuant to Rule 41(b). The dismissal shall be without prejudice. A dismissal without prejudice allows Plaintiff to refile the action if he either obtains the filing fee or can provide the financial information required to support a motion for leave to proceed in forma pauperis, so long as the limitation period has not expired.

IT IS THEREFORE ORDERED that this matter is **dismissed without prejudice** for failure to comply with a court order pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

Dated on this 9th day of September, 2021, in Topeka, Kansas.

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