

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

JEFFERY A. SCHOCK,

Plaintiff,

v.

CASE NO. 21-3263-SAC

ANDREW DEDEKE, et al.,

Defendants.

ORDER

Plaintiff filed this *pro se* civil rights case under 42 U.S.C. § 1983. Plaintiff filed a motion for leave to proceed *in forma pauperis*. (Doc. 2.) On November 15, 2021, the Court granted Plaintiff's motion for leave to proceed *in forma pauperis* and assessed an initial partial filing fee in the amount of \$20.00, calculated under 28 U.S.C. § 1915(b)(1). The order provides that the failure to pay the initial partial filing fee or file an objection by November 29, 2021, "may result in the dismissal of this matter without further notice." (Doc. 3.) In response to a request for an extension filed by Plaintiff, the deadline was extended to December 29, 2021. (Doc. 5.) Plaintiff has failed to submit the initial partial filing fee by the Court's deadline.

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).

IT IS THEREFORE ORDERED THAT this matter is dismissed without prejudice under Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

Dated January 11, 2022, in Topeka, Kansas.

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