

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

**JOHN TIMOTHY PRICE,**

**Plaintiff,**

**v.**

**CASE NO. 22-3259-JWL-JPO**

**STATE OF KANSAS, et al.,**

**Defendants.**

**MEMORANDUM AND ORDER**

Plaintiff John Timothy Price is a state prisoner housed at Douglas County Jail in Lawrence, Kansas. Plaintiff filed this § 1983 action against the State of Kansas, Douglas County Sheriff J. Armbrister, and Shawnee County Sheriff Brian C. Hill.

The Court entered an Order (Doc. 2) noting that Plaintiff had neither paid the statutory filing fee nor filed a motion to proceed in forma pauperis. The order further found that Plaintiff is subject to the “three-strikes” provision under 28 U.S.C. § 1915(g), which means that he may proceed in forma pauperis only if he establishes a threat of imminent danger of serious physical injury. The Court examined the complaint and attachments and found no showing of imminent danger of serious physical injury. Thus, the Court granted Plaintiff until November 17, 2022, to submit the \$402.00 filing fee. The order provided that “[t]he failure to submit the fee by that date will result in the dismissal of this matter without prejudice and without additional prior notice.” (Doc. 2, p. 2.) Plaintiff has failed to pay the filing fee by the deadline set forth in the order.

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 submit the filing fee 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: This 22nd day of November, 2022, in Kansas City, Kansas.

s/ John W. Lungstrum  
JOHN W. LUNGSTRUM  
United States District Judge