



FILED - SOUTHERN DIVISION
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JUN - 1 2011

CENTRAL DISTRICT OF CALIFORNIA
 BY *[Signature]* DEPUTY

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION**

14	LESLIE PAYNE,)	Case No. CV 11-2924-PA (MLG)
15	Plaintiff,)	
16	v.)	MEMORANDUM OPINION AND ORDER
17	NCCF MEDICAL DORM, et al.,)	DISMISSING COMPLAINT WITHOUT
18	Defendants.)	PREJUDICE FOR FAILURE TO
)	PROSECUTE

20 On April 20, 2011, Plaintiff Leslie Frank Payne, then a prisoner
 21 at the Terminal Annex of the Los Angeles County Jail, filed this
 22 complaint pursuant to 42 U.S.C. § 1983, asserting constitutional
 23 violations arising from an alleged denial of medical care over a
 24 period of three years. On April 25, 2011, Magistrate Judge Marc L.
 25 Goldman screened the complaint pursuant to 28 U.S.C. § 1915(e)(2),
 26 and dismissed the complaint with leave to amend. Plaintiff was given
 27 until May 18, 2011, in which to file an amended complaint. That Order
 28 was served on Plaintiff at the Terminal Annex of the Los Angeles

1 County Jail, the address he provided on the complaint. On May 3,
2 2011, the Order was returned to the Court with the notation that
3 Plaintiff was no longer an inmate at the institution. All other
4 correspondence has also been returned. Plaintiff has not informed the
5 court of any change of address and has made no contact with the court
6 since the filing of the complaint on April 20, 2011.

7 This action must be dismissed for failure to prosecute. The
8 Court has the inherent power to achieve the orderly and expeditious
9 disposition of cases by dismissing actions for failure to prosecute.
10 *Link v. Wabash R.R.*, 370 U.S. 626, 629-30 (1962); *Ferdik v. Bonzelet*,
11 963 F.2d 1258, 1260-61 (9th Cir. 1992). The Court is required to
12 weigh the following factors in determining whether to dismiss a case
13 for lack of prosecution: "(1) the public's interest in expeditious
14 resolution of litigation; (2) the court's need to manage its docket;
15 (3) the risk of prejudice to the defendants; (4) the public policy
16 favoring disposition of cases on their merits; and (5) the
17 availability of less drastic sanctions." *Omstead v. Dell, Inc.*, 594
18 F.3d 1081, 1084 (9th Cir. 2010); *Ferdik*, 963 F.2d at 1260, 1261; *In*
19 *re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994) (citing *Henderson*, 779
20 F.2d at 1423); *see also Pagtalunan v. Galaza*, 291 F.3d 639, 642 (9th
21 Cir. 2002).

22 Here, the public's interest in the expeditious resolution of
23 litigation and the court's interest in managing its docket weighs in
24 favor of dismissal. Dismissal without prejudice would not undermine
25 the public policy favoring disposition of cases on the merits. In
26 addition, there is no identifiable risk of prejudice to Defendants.

27 In addition, Plaintiff has failed to follow the mandate of L.R.
28 41-6. That rule provides that a *pro se* Plaintiff must keep the Court

1 apprised of his current address and phone number. "If mail directed
2 by the Clerk to a *pro se* plaintiff's address of record is returned
3 undelivered by the Postal Service, and if, within fifteen days of the
4 service date, such plaintiff fails to notify, in writing, the Court
5 . . . of his current address, the Court may dismiss the action with
6 or without prejudice." L.R. 41-6.

7 Here, the April 25, 2011 Order requiring Plaintiff to file an
8 amended complaint was returned to the court on May 3, 2011. More than
9 fifteen days have elapsed since service of the order and Plaintiff
10 has not provided the Court with his current address. For this reason
11 alone, dismissal is warranted.

12 Balancing all of these factors, dismissal of this action with
13 prejudice for failure to prosecute is warranted.

14 IT IS SO ORDERED.

15
16 Dated: May 30, 2011



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19 _____
Percy Anderson
United States District Judge

20
21
22 Presented by:

23 **MARC L. GOLDMAN**

24 _____
25 Marc L. Goldman
United States Magistrate Judge