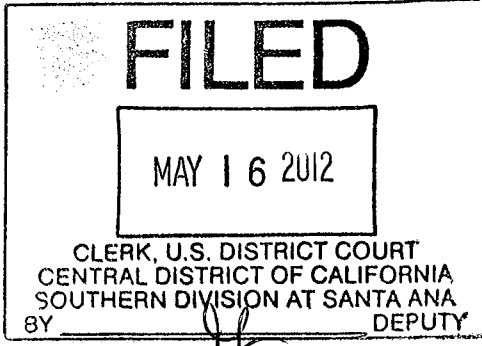


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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

VICKEY M. VILLEGAS,
Plaintiff,
v.
MICHAEL J. ASTRUE,
Commissioner of Social
Security,
Defendant.

Case No. CV 12-1585-JFW (MLG)
MEMORANDUM OPINION AND ORDER
DISMISSING COMPLAINT FOR FAILURE
TO SERVE AND PROSECUTE

This pro se complaint seeking judicial review of a decision by the Defendant Commissioner, was filed on March 2, 2012. On March 6, 2012, the Court issued a scheduling order directing Plaintiff to effect service on the United States Attorney, the Commissioner of Social Security, and the Attorney General of the United States no later than April 5, 2012. Plaintiff did not comply with this order.

On April 17, 2012, an order was issued directing Plaintiff to show cause, on or before May 3, 2012, why the action should not be dismissed for failure to effect service and failure to prosecute. Plaintiff was warned that failure to comply with the order would

1 result in dismissal of the action for failure to prosecute. Plaintiff
2 did not comply with this order either.

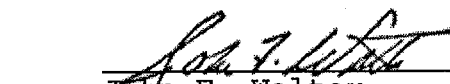
3 This action will be dismissed for failure to prosecute. Courts
4 possess the discretionary authority to dismiss an action based on a
5 plaintiff's failure to diligently prosecute or comply with a court
6 order. Fed.R.Civ.P. 41(b); Local Rule 12.1. See *Link v. Wabash R.R.*
7 *Co.*, 370 U.S. 626, 629-630 (1962). "Dismissal is a harsh penalty and
8 is to be imposed only in extreme circumstances." *Henderson v.*
9 *Duncan*, 779 F.2d 1421, 1423 (9th Cir. 1986). The Court is required
10 to weigh the following factors in determining whether to dismiss a
11 case for lack of prosecution: "(1) the public's interest in
12 expeditious resolution of litigation; (2) the court's need to manage
13 its docket; (3) the risk of prejudice to the defendants; (4) the
14 public policy favoring disposition of cases on their merits; and (5)
15 the availability of less drastic sanctions." *Omstead v. Dell, Inc.*,
16 594 F.3d 1081, 1084 (9th Cir. 2010); *In re Eisen*, 31 F.3d 1447, 1451
17 (9th Cir. 1994) (citing *Henderson*, 779 F.2d at 1423).

18 In weighing these factors, the Court concludes that dismissal
19 is appropriate in this case. Here, the public's interest in the
20 expeditious resolution of litigation and the court's interest in
21 managing its docket weighs in favor of dismissal. Dismissal without
22 prejudice would not undermine the public policy favoring disposition
23 of cases on the merits. In addition, there is no identifiable risk
24 of prejudice to Defendant. Finally, Plaintiff was advised of the
25 consequences of not responding to the order to show cause in the time
26 allowed. She apparently no longer wishes to continue with this
27 proceeding.

28 //

1 Accordingly, it is ORDERED that this action be dismissed without
2 prejudice for failure to prosecute.

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4 Dated: May 16, 2012

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7 
8 John F. Walter
United States District Judge

9 Presented By:

10 

11
12 Marc L. Goldman
United States Magistrate Judge