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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

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9 Akmal J. Robinson,

10 Plaintiff,

11 vs.

12 Joseph M. Arpaio et al,

13 Defendant.

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) No. CV 09-397-PHX-FJM

) **ORDER**

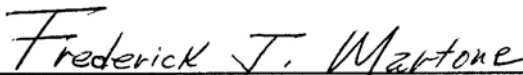
17 The court has before it defendants' Motion for Summary Judgment (doc. 35). No
18 response has been received. Our *Rand* order (doc. 37) was returned in the mail because
19 plaintiff was no longer in custody (doc. 39). Plaintiff has not filed a notice of change of
20 address. Defendants filed a notice documenting their attempts to locate plaintiff and provide
21 him a copy of their motion (doc. 40). Their review of DOC records indicated that plaintiff
22 was released from prison on September 21, 2010, but we have still not heard from him. The
23 docket indicates that we last heard from plaintiff on December 4, 2009. Yet LRCiv 83.3(d)
24 requires unrepresented incarcerated persons to file a notice of change of address with the
25 clerk within 7 days after the effective date of the change.

26 We conclude that plaintiff has abandoned his claim. He has simply failed to prosecute
27 this action. All of the factors under Rule 41(b), Fed. R. Civ. P. counsel in favor of a
28 dismissal with prejudice. The public has an interest in the resolution of litigation, on the

1 merits, if possible. The court has an interest in managing its docket. The defendants have
2 been subjected to two years of litigation—they should not have to be subjected to that ordeal
3 and cost again. There are no less drastic alternatives—a dismissal without prejudice fails to
4 compensate the defendants for their ordeal and subjects them to the risk of double litigation.
5 They have filed and served a motion for summary judgment. The plaintiff had an obligation
6 to respond. See Rule 56(e), Fed. R. Civ. P. LRCiv 56.1(b). LRCiv 7.2(i). This case is too
7 mature to dismiss without prejudice.

8 Accordingly, it is ORDERED that the reference to the magistrate judge is withdrawn,
9 this action is DISMISSED WITH PREJUDICE under Rule 41(b) for lack of prosecution, and
10 defendants' Motion for Summary Judgment is DENIED on grounds of mootness. (Doc. 35).

11 DATED this 22nd day of March, 2011.

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15 Frederick J. Martone
16 United States District Judge
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