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

DONOVAN L. HALEY,)	NO. CV 13-7304-AG(E)
)	
Plaintiff,)	
)	
v.)	REPORT AND RECOMMENDATION OF
)	
COUNTY OF LOS ANGELES, et al.,)	UNITED STATES MAGISTRATE JUDGE
)	
Defendants.)	
)	

This Report and Recommendation is submitted to the Honorable Andrew J. Guilford, United States District Judge, pursuant to 28 U.S.C. section 636 and General Order 05-07 of the United States District Court for the Central District of California.

PROCEEDINGS

On October 16, 2013, the Court issued an "Order Re Leave to File Action Without Prepayment of Full Filing Fee," denying Plaintiff's request to file a proposed Complaint without prepayment of the full filing fee. The Order was accompanied by an Attachment stating that:

1 (1) Plaintiff had failed to allege standing to challenge to the
2 constitutionality of most if not all of the alleged conditions in the
3 Los Angeles County Jail; (2) Plaintiff's conclusory allegations of
4 constitutional violations were insufficient; (3) the pro se Plaintiff
5 could not represent other inmates; and (4) Plaintiff's claims for
6 injunctive relief were moot. On November 12, 2013, the Court denied
7 Plaintiff's request for reconsideration of that Order.

8
9 On February 25, 2014, the United States Court of Appeals for the
10 Ninth Circuit issued an Order remanding the matter to this Court to
11 afford Plaintiff, inter alia, an opportunity to file an amended
12 complaint.

13
14 On March 3, 2014, the Magistrate Judge issued an Order granting
15 Plaintiff leave to file, within thirty (30) days of the date of the
16 Order: (1) a proposed First Amended Complaint attempting to cure the
17 defects in the original Complaint described in the "Attachment" to the
18 Court's October 16, 2013 Order; and (2) a "Request to Proceed Without
19 Prepayment of Filing Fees With Declaration in Support," accompanied by
20 a certified copy of Plaintiff's trust fund statement for the past six
21 (6) months and a current declaration authorizing disbursements from
22 Plaintiff's prison trust account to pay any filing fee.

23
24 On March 13, 2014, Plaintiff filed a "Request to Proceed without
25 Prepayment of Filing Fees, etc." On March 20, 2014, Plaintiff filed
26 an "Application to Amend Complaint and Proposed First Amended
27 Complaint," accompanied by a "Federal and State Civil Rights
28 Complaint, etc." On March 26, 2014, the Magistrate Judge granted

1 Plaintiff's "Request to Proceed Without Prepayment of Filing Fees,
2 etc."

3
4 On April 3, 2014, Plaintiff filed: (1) an "Affidavit of Plaintiff
5 Donovan L. Haley in Support of 8th and 14th Amendment Claims"
6 ("Plaintiff's Affidavit"); and (2) a "Declaration of Plaintiff;
7 Requests [sic] the Within Injunctive Orders, as Stated, and Daily
8 Fines" ("Plaintiff's Declaration"). The Court deemed Plaintiff's
9 "Federal and State Civil Rights Complaint, etc.," Plaintiff's
10 Affidavit and Plaintiff's Declaration collectively to constitute
11 Plaintiff's First Amended Complaint.

12
13 By "Order re First Amended Complaint," filed April 27, 2014, the
14 Court dismissed Plaintiff's claims for declaratory and injunctive
15 relief without leave to amend and dismissed all of the other claims in
16 the First Amended Complaint with leave to amend. The Court granted
17 Plaintiff thirty days from April 27, 2014, within which to file a
18 Second Amended Complaint. The Court cautioned Plaintiff that
19 "[f]ailure to file timely a Second Amended Complaint in conformity
20 with this Order may result in the dismissal of this action."
21 Nevertheless, Plaintiff failed to file a Second Amended Complaint
22 within the allotted time.

23
24 By Minute Order dated June 9, 2014, the Court sua sponte extended
25 the deadline for filing the Second Amended Complaint to June 30, 2014.
26 Nevertheless, Plaintiff again failed to file a Second Amended
27 Complaint within the allotted time, as extended.

28 ///

1 **DISCUSSION**

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3 The action should be dismissed without prejudice. The First
4 Amended Complaint is defective for the reasons stated in the
5 Memorandum and Order. Plaintiff has failed to file a Second Amended
6 Complaint within the allotted time. The Court has inherent power to
7 achieve the orderly and expeditious disposition of cases by dismissing
8 actions for failure to prosecute. Link v. Wabash R.R., 370 U.S. 626,
9 629-30 (1962); see Fed. R. Civ. P. 41(b). The Court has considered
10 the factors recited in Ferdik v. Bonzelet, 963 F.2d 1258, 1260-62 (9th
11 Cir.), cert. denied, 506 U.S. 915 (1992), and has concluded that
12 dismissal without prejudice is appropriate. In particular, any less
13 drastic alternative would not be effective under the circumstances of
14 this case.

15

16 **RECOMMENDATION**

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18 For all of the foregoing reasons, IT IS RECOMMENDED that the
19 Court issue an Order: (1) accepting and adopting this Report and
20 Recommendation; and (2) directing that Judgment be entered dismissing
21 the action without prejudice.

22

23 DATED: July 14, 2014.

24

25 _____/s/
26 CHARLES F. EICK
27 UNITED STATES MAGISTRATE JUDGE

1 **NOTICE**

2 Reports and Recommendations are not appealable to the Court of
3 Appeals, but may be subject to the right of any party to file
4 objections as provided in the Local Rules Governing the Duties of
5 Magistrate Judges and review by the District Judge whose initials
6 appear in the docket number. No notice of appeal pursuant to the
7 Federal Rules of Appellate Procedure should be filed until entry of
8 the judgment of the District Court.

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