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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 CLIFTON R. HAYNES, JR.,
12 Plaintiff,
13 v.
14 KATHLEEN ALLISON, et al.,
15 Defendants.

Case No. ED CV 19-1276-DMG (JC)

MEMORANDUM OPINION AND
ORDER DISMISSING ACTION

16
17 **I. BACKGROUND AND SUMMARY**

18 On July 11, 2019, plaintiff Clifton R. Haynes, Jr., who was then in custody at
19 the North Kern State Prison, is proceeding *pro se*, and has been granted leave to
20 proceed without prepayment of the filing fee, filed a Civil Rights Complaint
21 pursuant to 42 U.S.C. § 1983 against Kathleen Allison, Director of the Adult
22 Division for the California Department of Corrections and Rehabilitation, in her
23 individual and official capacities, as well as unspecified “Does, et al.” Plaintiff’s
24 current address of record (“Address of Record”) is reflected on the first page of the
25 Complaint.

26 Also on July 11, 2019, the Clerk sent a “Notice of Judge Assignment and
27 Reference to a United States Magistrate Judge” (“Notice”) to plaintiff at his
28 Address of Record. The Notice expressly advised plaintiff that he was required to

1 notify the Court within five (5) days of any address change, and that if mail directed
2 by the Clerk to his Address of Record was returned undelivered by the Post Office,
3 and if the Court was not timely notified thereafter of his current address, the Court
4 may dismiss the matter for want of prosecution. The Notice was sent to plaintiff at
5 his Address of record, has not been returned, and is presumed to have been
6 delivered to plaintiff.

7 On July 17, 2019, the Magistrate Judge issued an Initial Order Re: Pro Se
8 Civil Rights Cases (“July Order”) which, among other things, advised plaintiff that,
9 “[a]s long as this action is pending, plaintiff must immediately notify the Court and
10 defense counsel if his/her address changes and promptly provide the Court with the
11 new address and its effective date.” (July Order at 2, ¶ 3). The July Order further
12 cautioned plaintiff that “[a]ny failure by plaintiff to provide the Court and
13 defendants with plaintiff’s current address, may result in a dismissal of the case for
14 want of prosecution.” (July Order at 2-3, ¶ 3) (citing Local Rule 41-6). The July
15 Order was sent to plaintiff at his Address of Record, has not been returned, and is
16 presumed to have been delivered to plaintiff.

17 On March 10, 2020, the Magistrate Judge issued an order (“March Order”) in
18 which she screened the Complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A
19 and 42 U.S.C. § 1997e(c), identified multiple deficiencies therein, dismissed the
20 Complaint with leave to amend, and directed plaintiff, within 14 days, to either file
21 a first amended complaint which cures the pleading defects identified in the March
22 Order, a notice of dismissal, or a notice of intent to stand on Complaint. The March
23 Order was sent to plaintiff at his Address of Record. On April 16, 2020, the March
24 Order that was sent to plaintiff was returned as undeliverable, with a notation that
25 plaintiff was “not in database.” To date, plaintiff has failed to notify the Court of
26 his new/updated address.

27 As discussed below, this action is dismissed due to plaintiff’s failure to keep
28 the Court apprised of his correct address, which amounts to a failure to prosecute.

1 **II. DISCUSSION**

2 Pursuant to Local Rule 41-6, a party proceeding *pro se* is required to keep
3 the Court apprised of his current address at all times. Local Rule 41-6 provides in
4 pertinent part:

5 A party proceeding *pro se* shall keep the Court and opposing parties
6 apprised of such party’s current address and telephone number, if any,
7 and e-mail address, if any. If mail directed by the Clerk to a *pro se*
8 plaintiff’s address of record is returned undelivered by the Postal
9 Service, and if, within fifteen (15) days of the service date, such
10 plaintiff fails to notify, in writing, the Court and opposing parties of
11 said plaintiff’s current address, the Court may dismiss the action with
12 or without prejudice for want of prosecution.

13 In the instant case, more than fifteen (15) days have passed since the March
14 Order was served upon plaintiff and returned undelivered by the Postal Service.
15 As noted above, to date, plaintiff has not notified the Court of his new address.

16 The Court has the inherent power to achieve the orderly and expeditious
17 disposition of cases by dismissing actions for failure to prosecute. See Fed. R. Civ.
18 P. 41(b); Link v. Wabash R.R., 370 U.S. 626, 629-30 (1962). In determining
19 whether to dismiss an action for failure to prosecute, a district court must consider
20 several factors: (1) the public’s interest in expeditious resolution of litigation;
21 (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendant;
22 (4) the public policy favoring disposition of cases on their merits; and (5) the
23 availability of less drastic alternatives. See In re Eisen, 31 F.3d 1447, 1451 (9th
24 Cir. 1994). Dismissal is appropriate under the foregoing analysis “where at least
25 four factors support dismissal . . . or where at least three factors ‘strongly’ support
26 dismissal.” Hernandez v. City of El Monte, 138 F.3d 393, 399 (9th Cir. 1998)
27 (citations omitted).

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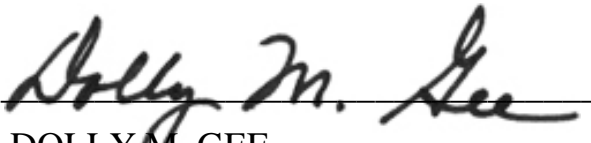
1 The Court finds that the first two factors – the public’s interest in
2 expeditiously resolving this litigation and the Court’s interest in managing the
3 docket, weigh in favor of dismissal. The Court cannot hold this case in abeyance
4 indefinitely based on plaintiff’s failure to notify the Court of his correct address.
5 See Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal of
6 action for lack of prosecution pursuant to local rule which permitted such dismissal
7 when pro se plaintiff failed to keep court apprised of correct address; “It would be
8 absurd to require the district court to hold a case in abeyance indefinitely just
9 because it is unable, through plaintiff’s own fault, to contact the plaintiff to
10 determine if his reasons for not prosecuting his lawsuit are reasonable or not.”).
11 The third factor, risk of prejudice to the defendant, also weighs in favor of
12 dismissal since a presumption of injury arises from the occurrence of unreasonable
13 delay in prosecuting an action. Anderson v. Air West, Inc., 542 F.2d 522, 524 (9th
14 Cir. 1976). The fourth factor, the public policy favoring disposition of cases on
15 their merits, is greatly outweighed by the factors in favor of dismissal discussed
16 herein. Finally, given the Court’s inability to communicate with plaintiff based on
17 his failure to keep the Court apprised of his current address, no lesser sanction is
18 feasible. See Musallam v. United States Immigration Service, 2006 WL 1071970
19 (E.D. Cal. Apr. 24, 2006).

20 **III. ORDER**

21 IT IS THEREFORE ORDERED that this action is dismissed without
22 prejudice for want of prosecution based upon plaintiff’s failure to keep the Court
23 apprised of his current address.

24 IT IS SO ORDERED.

25 DATED: September 16, 2020

26 
27 DOLLY M. GEE
28 UNITED STATES DISTRICT JUDGE