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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SARAH ANN STEPHENS,)	Case No. EDCV 21-1273-ODW (JPR)
)	
Plaintiff,)	
)	ORDER DISMISSING ACTION FOR
v.)	FAILURE TO RESPOND TO COURT ORDER
)	AND FAILURE TO PROSECUTE
MOSQUEDA et al.,)	
)	
Defendants.)	
)	

On July 28, 2021, Plaintiff filed this civil-rights action; a couple of months later, after she was denied in forma pauperis status, she paid the filing fee. When she had not filed a proof of service or taken any other action in this case for years, the previously assigned magistrate judge issued an order to show cause why this action should not be dismissed for Plaintiff's failure to serve the complaint and to prosecute. On August 30, 2024, that order was returned in the mail as undeliverable. Plaintiff has never filed a change of address.

Carey v. King, 856 F.2d 1439, 1441 (9th Cir. 1988) (per curiam), examined when it is appropriate to dismiss a lawsuit for failure to prosecute. See also Link v. Wabash R.R., 370 U.S. 626, 629-30 (1962) ("The power to invoke [dismissal] is necessary

1 in order to prevent undue delays in the disposition of pending
2 cases and to avoid congestion in the calendars of the District
3 Courts.”).

4 In deciding whether to do so, a court must consider “(1) the
5 public’s interest in expeditious resolution of litigation; (2)
6 the court’s need to manage its docket; (3) the risk of prejudice
7 to the defendants; (4) the public policy favoring disposition of
8 cases on their merits[;] and (5) the availability of less drastic
9 sanctions.” Carey, 856 F.2d at 1440 (citation omitted).

10 Unreasonable delay creates a “rebuttable presumption of
11 prejudice” to the defendant that can be overcome only with an
12 affirmative showing of just cause by the plaintiff. In re Eisen,
13 31 F.3d 1447, 1452-53 (9th Cir. 1994).

14 Local Rule 41-6 likewise provides that

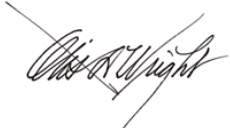
15 [a] party proceeding pro se must keep the Court . . .
16 informed of the party’s current address If a
17 Court order or other mail served on a pro se plaintiff at
18 his address of record is returned by the Postal Service
19 as undeliverable and the pro se party has not filed a
20 notice of change of address within 14 days of the service
21 date of the order or other Court document, the Court may
22 dismiss the action with or without prejudice for failure
23 to prosecute.

24 Here, the first, second, third, and fifth Carey factors
25 favor dismissal. Because Plaintiff has failed to file a change
26 of address, the Court can’t communicate with her and therefore
27 can’t manage its docket. Plus, because she hasn’t responded to
28 the order to show cause, she hasn’t rebutted the presumption of

1 prejudice to Defendants. Because of the Court's inability to
2 communicate with Plaintiff, no less drastic sanction exists.
3 Moreover, the Court cannot simply leave this case hanging on its
4 docket in the hope that Plaintiff one day reappears, particularly
5 given that it is already more than three years old. Although the
6 fourth Carey factor weighs against dismissal – as it does in
7 every case – together, the other factors outweigh the public's
8 interest in disposing of the case on its merits. See Scott v.
9 Belmares, 328 F. App'x 538, 539 (9th Cir. 2009) (affirming
10 dismissal of civil-rights lawsuit in part because pro se
11 plaintiff failed to keep court apprised of change of address
12 under Local Rule 41-6).

13 It therefore is ORDERED that this action is dismissed with
14 prejudice under the Court's inherent power to achieve the orderly
15 and expeditious disposition of cases by dismissing them for
16 failure to prosecute and because Plaintiff has not responded to
17 the Court's August 13, 2024 order to show cause. LET JUDGMENT BE
18 ENTERED ACCORDINGLY.

19
20 DATED: September 26, 2024



OTIS D. WRIGHT II
U.S. DISTRICT JUDGE

21 Presented by:

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23 _____
24 Jean P. Rosenbluth
25 U.S. Magistrate Judge
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27
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