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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 ROGELIO GALICIA VARGAS,) 1:09-cv-00842-SKO-HC
11)
12 Petitioner,) ORDER DISMISSING THE ACTION
13) WITHOUT PREJUDICE FOR
14 v.) PETITIONER'S FAILURE TO PROSECUTE
15) ORDER DIRECTING THE CLERK TO
16 WARDEN J. E. SUGRUE,) CLOSE THE CASE
17)
18 Respondent.)
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18 Petitioner is a federal prisoner proceeding pro se with a
19 petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.
20 Pursuant to the parties' consent, the matter has been referred to
21 the Magistrate Judge for all proceedings, including the entry of
22 final judgment, pursuant to 28 U.S.C. § 636(c), Fed. R. Civ. P.
23 73(b), and Local Rule 301.¹

24 I. Petitioner's Failure to Inform the Court of His Address

25 On April 14, 2010, the Court issued an order reassigning the
26 present proceeding to the undersigned Magistrate Judge, and the
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¹ Respondent's counsel filed a signed consent form on May 24, 2010, and
Petitioner most recently filed a signed consent form on October 13, 2009.

1 order was served on Petitioner. On April 26, 2010, the order
2 served on Petitioner was returned by the U.S. Postal Service as
3 undeliverable and with a notation "not in custody."

4 Pursuant to Local Rule 183(b), a party appearing in propria
5 persona is required to keep the Court apprised of his or her
6 current address at all times. Local Rule 183(b) provides, in
7 pertinent part:

8 If mail directed to a plaintiff in propria
9 persona by the Clerk is returned by the U.S.
10 Postal Service, and if such plaintiff fails
11 to notify the Court and opposing parties
12 within sixty-three (63) days thereafter of a
current address, the Court may dismiss the
action without prejudice for failure to
prosecute.

13 In the instant case, more than sixty-three days (63) have
14 passed since Petitioner's mail was returned, and he has not
15 notified the Court of a current address.

16 In determining whether to dismiss an action for lack of
17 prosecution, the Court must consider several factors: (1) the
18 public's interest in expeditious resolution of litigation; (2)
19 the Court's need to manage its docket; (3) the risk of prejudice
20 to the respondents; (4) the public policy favoring disposition of
21 cases on their merits; and (5) the availability of less drastic
22 alternatives. Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir.
23 1986); Carey v. King, 856 F.2d 1439 (9th Cir. 1988). The Court
24 finds that the public's interest in expeditiously resolving this
25 litigation and the Court's interest in managing the docket weigh
26 in favor of dismissal because this case has been pending since
27 May 13, 2009. The Court cannot hold this case in abeyance
28 indefinitely based on Petitioner's failure to notify the Court of

1 his address. The third factor, risk of prejudice to respondents,
2 also weighs in favor of dismissal, since a presumption of injury
3 arises from the occurrence of unreasonable delay in prosecuting
4 an action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir.
5 1976). The fourth factor, public policy favoring disposition of
6 cases on their merits, is greatly outweighed by the factors in
7 favor of dismissal discussed herein. Finally, given the Court's
8 inability to communicate with Petitioner based on Petitioner's
9 failure to keep the Court apprised of his current address, no
10 lesser sanction is feasible.

11 II. Disposition

12 Accordingly, the action is DISMISSED without prejudice for
13 Petitioner's failure to prosecute.

14 The Clerk is DIRECTED to close the case because this order
15 terminates the action in its entirety.

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17 IT IS SO ORDERED.

18 **Dated: July 12, 2010**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE