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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CLINTON VALES,

Plaintiff,

v.

DR. CHEN, et al.,

Defendants.

CASE NO. 1:09-cv-2164-MJS (PC)

ORDER TO SHOW CAUSE FOR FAILURE
TO PROSECUTE

PLAINTIFF MUST SHOW CAUSE BY
SEPTEMBER 6, 2010

_____ /

Plaintiff Clinton Vales is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to the Magistrate Judge presiding over this action. (ECF No. 5.) On April 16, 2010, the Court mailed to the Plaintiff's last known address an order reassigning this case. (ECF No. 6.) The order was returned as undeliverable on May 3, 2010.

A party appearing in propria persona is required to keep the Court apprised of his or her current address at all times. Local Rule 83-183(b) provides, in pertinent part:

If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within sixty (60) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

In the instant case, more than sixty days have passed since Plaintiff's mail was returned and Plaintiff has not notified the Court of a current address.

In determining whether to dismiss an action for lack of prosecution, the Court must

1 consider several factors: (1) the public's interest in expeditious resolution of litigation; (2)
2 the Court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the
3 public policy favoring disposition of cases on their merits; and (5) the availability of less
4 drastic sanctions. Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986); Carey v.
5 King, 856 F.2d 1439 (9th Cir. 1988). The Court finds that the public's interest in
6 expeditiously resolving this litigation and the Court's interest in managing the docket weigh
7 in favor of dismissal. The Court cannot hold this case in abeyance indefinitely based on
8 Plaintiff's failure to notify the court of his address. The third factor, risk of prejudice to the
9 defendants, also weighs in favor of dismissal, since a presumption of injury arises from the
10 occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West, 542
11 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring disposition of cases
12 on their merits—is greatly outweighed by the factors in favor of dismissal discussed herein.
13 Finally, given the Court's inability to communicate with Plaintiff based on Plaintiff's failure
14 to keep the Court apprised of his current address, no lesser sanction is feasible.

15 Accordingly, Plaintiff is ORDERED to show cause not later than **September 6, 2010**
16 as to why his case should not be dismissed for failure to prosecute.

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19 IT IS SO ORDERED.

20 Dated: August 4, 2010

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE