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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JESSE JAMES ISLEY,)	Case No.: 1:10-cv-01378 JLT
)	
Plaintiff,)	ORDER DISMISSING PLAINTIFF’S
)	COMPLAINT
v.)	
)	ORDER DIRECTING THE CLERK TO CLOSE
MICHAEL J. ASTRUE,)	THIS MATTER
Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

Jesse James Isley (“Plaintiff”) initiated this action by filing his complaint against the Commissioner of Social Security (“Defendant”) on July 30, 2010. (Doc. 1). For the following reasons, Plaintiff’s complaint is **DISMISSED**.

I. Procedural History

On August 2, 2010, the Court entered its Scheduling Order, setting the applicable deadlines. (Doc. 7). Pursuant to the Scheduling Order, the administrative record was lodged on December 7, 2010. (Doc. 11). On March 10, 2010, the parties stipulated to an extension of time to for Plaintiff to file his Opening Brief. (Doc. 12).

Plaintiff’s counsel filed a motion to withdraw as attorney of record, which was granted by the Court on May 11, 2011. (Docs. 16, 29). The Court ordered Plaintiff, appearing in propria persona, to file his Opening Brief within forty-five days of service of the order, or by June 27, 2011. (Doc. 19 at 3). Plaintiff was advised that failure to comply with the Court’s order, the Local Rules, or the

1 Federal Rules may result in dismissal of the action. *Id.* at 4. However, Plaintiff failed to file his
2 Opening Brief or otherwise respond to the Court’s order, and the Court issued an Order to Show
3 Cause why the matter should not be dismissed on June 29, 2011. (Doc. 20). On August 1, 2011, the
4 Court’s Order was returned by the U.S. Postal Service as undeliverable to Plaintiff, with the
5 following notation: “Moved/Left No Address/Unable to Forward/ Return to Sender.”

6 **II. Local Rules Requirements**

7 Pursuant to Local Rule 183(b), a party appearing in propria persona is required to keep the
8 Court apprised of his current address: “If mail directed to a plaintiff in propria persona by the Clerk
9 is returned by the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing
10 parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action
11 without prejudice for failure to prosecute.” LR 183(b). In addition, the Local Rules, corresponding
12 with Fed. R. Civ. P. 11, provide: “Failure of counsel or of a party to comply with . . . any order of the
13 Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent
14 power of the Court.” LR 110.

15 **III. Discussion and Analysis**

16 “District courts have inherent power to control their dockets,” and in exercising that power, a
17 court may impose sanctions including dismissal of an action. *Thompson v. Housing Authority of Los*
18 *Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice, based on
19 a party’s failure to prosecute an action or failure to obey a court order, or failure to comply with local
20 rules. *See, e.g., Ghazali v. Moran*, 46 F.3d 52, 53-54 (9 th Cir. 2995) (dismissal for failure to
21 comply with local rules); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
22 failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal Service*,
23 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order); *Henderson v.*
24 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and to comply with
25 local rules).

26 In determining whether to dismiss an action for failure to prosecute, failure to obey a court
27 order, or failure to comply with the Local Rules, the Court must consider several factors, including:
28 “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its

1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases
2 on their merits; and (5) the availability of less drastic sanctions.” *Henderson*, 779 F.2d at 1423-24;
3 *see also Ferdik*, 963 F.2d at 1260-61; *Thomson*, 782 F.2d at 831.

4 In the case at hand, the public’s interest in expeditiously resolving this litigation and the
5 Court’s interest in managing the docket weigh in favor of dismissal. The risk of prejudice to the
6 defendant also weighs in favor of dismissal, since a presumption of injury arises from the occurrence
7 of unreasonable delay in prosecution of an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th
8 Cir. 1976). The Court will not, and cannot, hold the case in abeyance based upon Plaintiff’s failure
9 to prosecute or notify the Court of a change in address. Further, the policy favoring disposition of
10 cases on their merits is outweighed by the factors in favor of dismissal.

11 On May 11, 2011, the Court warned Plaintiff “failure to comply with the Local Rules,
12 Federal Rules, or a Court Order, including this Order, may result in dismissal of this action pursuant
13 to Local Rule 110.” (Doc. 19 at 4) (emphasis in original). Thus, Plaintiff had adequate warning that
14 dismissal would result from his noncompliance with the Court’s order, and this satisfies the
15 requirement that the Court consider less drastic measures than dismissal of the action. *Ferdik*, 963
16 F.2d at 1262; *Henderson*, 779 F.2d at 1424. Moreover, no lesser sanction is feasible given the
17 Court’s inability to communicate with Plaintiff.

18 **IV. Conclusion and Order**

19 Plaintiff has failed to prosecute his case, comply with the Court’s orders, and follow the
20 requirements of the Local Rules in this action. As set forth above, the factors set forth by the Ninth
21 Circuit weigh in favor of dismissal of the matter.

22 Accordingly, **IT IS HEREBY ORDERED:**

- 23 1. This action is **DISMISSED WITH PREJUDICE**; and
- 24 2. The Clerk of Court **IS DIRECTED** to close this action because this order terminates
25 the action in its entirety.

26 IT IS SO ORDERED.

27 Dated: October 3, 2011

28 /s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE