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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MANUEL MARTINEZ

1:12-cv-0561-AWI-MJS (PC)

Plaintiff,

ORDER TO SHOW CAUSE FOR
FAILURE TO PROSECUTE

v.

PLAINTIFF MUST SHOW CAUSE BY
WITHIN FOURTEEN DAYS

JAMES D. HARTLEY, et al.,

Defendants.

_____/

Plaintiff Manuel Martinez ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights actions pursuant to 42 U.S.C. § 1983.

Plaintiff initiated this action on February 21, 2012. (ECF No. 2.) On May 7, 2012, the Court's April 27, 2012 Order granting Plaintiff's motion to proceed in forma pauperis was returned by the U.S. Postal Service as undeliverable to Plaintiff. Over 63 days have passed and Plaintiff has not provided the Court with a new address or otherwise responded.

Pursuant to Local Rule 183(b), a party appearing in propria persona is required to keep the Court apprised of his or her current address at all times. Local Rule 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

1 to notify the Court and opposing parties within sixty-three (63)
2 days thereafter of a current address, the Court may dismiss
the action without prejudice for failure to prosecute.

3 In the instant case, over 63 days have passed since Plaintiff's mail was returned, and he
4 has not notified the Court of a current address.

5 In determining whether to dismiss an action for lack of prosecution, the Court must
6 consider several factors: (1) the public's interest in expeditious resolution of litigation; (2)
7 the Court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the
8 public policy favoring disposition of cases on their merits; and (5) the availability of less
9 drastic sanctions. Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986); Carey v.
10 King, 856 F.2d 1439 (9th Cir. 1988). The Court finds that the public's interest in
11 expeditiously resolving this litigation and the Court's interest in managing the docket weigh
12 in favor of dismissal. The Court cannot hold this case in abeyance indefinitely based on
13 Plaintiff's failure to notify the court of his address. The third factor, risk of prejudice to the
14 defendants, also weighs in favor of dismissal, since a presumption of injury arises from
15 the occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West,
16 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring disposition
17 of cases on their merits—is greatly outweighed by the factors in favor of dismissal
18 discussed herein. Finally, given the Court's inability to communicate with Plaintiff based
19 on Plaintiff's failure to keep the Court apprised of his current address, no lesser sanction
20 is feasible.

21 Accordingly, Plaintiff is ORDERED to show cause within **fourteen days** of entry of
22 this Order why his case should not be dismissed for failure to prosecute. **Failure to meet**
23 **this deadline will result in dismissal of this action.**

24
25 IT IS SO ORDERED.

26 Dated: July 3, 2012

27
28 Is/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE