

1 On March 2, 2016, Defendants filed a notice and submit that defense counsel “performed a
2 search of Plaintiff’s location through the Federal Bureau of Prisons and discovered Plaintiff was
3 released from prison on November 10, 2015. (ECF No. 58-1, Declaration of Andrea Sloan ¶ 4 (Sloan
4 Decl.)) Counsel then contacted Plaintiff’s last known institution, LaSalle Detention Facility in Jena,
5 LA and inquired as to how to get in contact with Plaintiff. (Id. ¶ 5.) Counsel was referred to the
6 Immigration and Customs Enforcement (ICE) location in Louisiana, as Plaintiff was not legally in the
7 United States. (Id. ¶ 6.) On February 12, 2016, counsel “spoke with ICE Enforcement and Removal
8 Assistant, Cynthia.” (Id. ¶ 7.) Counsel was informed that ICE records indicate Plaintiff was deported
9 to his country of origin on December 11, 2015. (Id.) Defendants request dismissal of the action for
10 failure to prosecute.

11 On March 22, 2016, the Court directed Plaintiff to show cause within twenty days why the
12 action should not be dismissed for failure to prosecute. (ECF No. 59.) The twenty day time frame has
13 expired and Plaintiff has failed to respond to the Court’s order. Accordingly, dismissal of the action
14 is warranted.

15 “In determining whether to dismiss an action for lack of prosecution, the district court is
16 required to consider several factors: (1) the public’s interest in expeditious resolution of litigation; (2)
17 the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
18 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions.” Carey
19 v. King, 856 F.2d 1439, 1440 (9th Cir. 1988) (internal quotation marks and citation omitted); accord
20 Omstead v. Dell, Inc., 594 F.3d 1081, 1084 (9th Cir. 2010); In re Phenylpropanolamine (PPA)
21 Products Liability Litigation, 460 F.3d 1217, 1226 (9th Cir. 2006). These factors guide a court in
22 deciding what to do, and are not conditions that must be met in order for a court to take action. In re
23 PPA, 460 F.3d at 1226 (citation omitted).

24 The expeditious resolution of litigation and the Court’s need to manage its docket weigh in
25 favor of dismissal. Id. at 1227. Further, an opposing party is necessarily prejudiced by the aging of a
26 case left to idle indefinitely as a result of the Plaintiff’s disinterest in either moving forward or taking
27 action to dismiss the case. Id.

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1 With respect to the fourth factor, “public policy favoring disposition of cases on their merits
2 strongly counsels against dismissal,” but “this factor lends little support to a party whose responsibility
3 it is to move a case toward disposition on the merits but whose conduct impedes progress in that
4 direction.” Id. at 1228.

5 Finally, given the Court’s and Defendants’ inability to communicate with Plaintiff, there are no
6 other reasonable alternatives available to address Plaintiff’s failure to prosecute. In re PPA, 460 F.3d
7 at 1228-29; Carey, 856 F.2d at 1441.

8 Accordingly, the Court HEREBY DISMISSES this action, without prejudice, based on
9 Plaintiff’s failure to prosecute by keeping the Court apprised of his current address. Fed. R. Civ. P.
10 41(b); Local Rule 183(b).

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12 IT IS SO ORDERED.

13 Dated: April 15, 2016

/s/ Lawrence J. O’Neill
14 UNITED STATES DISTRICT JUDGE