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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRODERICK FIELDS,)	1:14-cv-00177-BAM (PC)
)	
Plaintiff,)	ORDER DISMISSING ACTION FOR
)	FAILURE TO PROSECUTE, FAILURE TO
v.)	COMPLY WITH A COURT ORDER, AND
)	FAILURE TO COMPLY WITH THE LOCAL
P. D. BRAZELTON, et al.,)	RULES
)	
Defendants.)	
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Plaintiff Broderick R. Fields (“Plaintiff”) a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983, filed this action on February 10, 2014. (ECF No. 1.) On June 30, 2015, the Court issued an order finding service of Plaintiff’s amended complaint appropriate, and forwarding service documents to him for completion and return within thirty days. (ECF No. 12.) The Court’s order was directed to the Plaintiff by the Clerk of the Court, but it was later returned by the United States Postal Service as undeliverable, not at institution, on July 30, 2015. Plaintiff consented to the jurisdiction of the Magistrate Judge for all purposes on March 3, 2014. (Doc. 5.)

I. Discussion

Plaintiff is required to keep the Court apprised of his current address at all times. Local Rule 183(b) provides:

1 **Address Changes.** A party appearing in propria persona shall keep the Court
2 and opposing parties advised as to his or her current address. If mail directed to
3 a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service,
4 and if such plaintiff fails to notify the Court and opposing parties within sixty-
5 three (63) days thereafter of a current address, the Court may dismiss the action
6 without prejudice for failure to prosecute.

7 Federal Rule of Civil Procedure 41(b) also provides for dismissal of an action for failure to
8 prosecute.¹ In determining whether to dismiss an action for lack of prosecution, failure to obey a
9 court order, or failure to comply with local rules, the Court must consider several factors: (1) the
10 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;
11 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
12 their merits; and (5) the availability of less drastic sanctions. Carey v. King, 856 F.2d 1439, 1440
13 (9th Cir. 1988) (internal quotation marks and citation omitted); accord Omstead v. Dell, Inc., 594
14 F.3d 1081, 1084 (9th Cir. 2010); In re Phenylpropanolamine (PPA) Prods. Liab. Litig., 460 F.3d
15 1217, 1226 (9th Cir. 2006). These factors guide a court in deciding what to do, and are not
16 conditions that must be met in order for a court to take action. In re PPA, 460 F.3d at 1226
17 (citation omitted).

18 In this case, according to the Court's docket, Plaintiff's address change was due no later
19 than October 8, 2015. Plaintiff has failed to file a change of address and he has not otherwise
20 been in contact with the Court. Furthermore, this action has been pending since February 2014
21 and the Court finds that the public's interest in expeditiously resolving this long-pending
22 litigation and the Court's interest in managing the docket weigh in favor of dismissal. The third
23 factor, risk of prejudice to respondents, also weighs in favor of dismissal, since a presumption of
24 injury arises from the occurrence of unreasonable delay in prosecuting an action. Anderson v.
25 Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
26 disposition of cases on their merits—is greatly outweighed by the factors in favor of dismissal
27 discussed herein.

28 ¹ Courts may dismiss actions sua sponte under Rule 41(b) based on the plaintiff's failure to
prosecute. Hells Canyon Preservation Council v. U. S. Forest Serv., 403 F.3d 683, 689 (9th Cir. 2005)
(citation omitted).

1 Finally, the Court has reviewed the “consideration of alternatives” requirement. See,
2 Ferdik v. Bonzelet, 963 F.2d at 1262; Malone, 833 at 132–33; Henderson, 779 F.2d at 1424. The
3 Court’s order dated February 12, 2014, served on Plaintiff that same day, expressly informed
4 him that each party appearing in propria persona was under a continuing duty to notify the Clerk
5 and all other parties of any change of address by filing a notice. (ECF No. 3, p. 5-6.) The order
6 further informed Plaintiff that the failure to update his mailing address within sixty–three (63)
7 days of mail being returned as undeliverable would result in dismissal of his case for failure to
8 prosecute. (Id.) Because Plaintiff has failed to inform the Court of his new address, it is not
9 possible for the Court to communicate with him or to explore any alternatives short of dismissal
10 of the case.

11 **II. Conclusion and Order**

12 For the reasons stated, it is HEREBY ORDERED that:

- 13 1. This action is DISMISSED, without prejudice, based on Plaintiff’s failure to
14 prosecute, failure to obey the Court’s order, and failure to follow the Court’s rules; and
15 2. The Clerk of the Court is DIRECTED to close this action.

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17 IT IS SO ORDERED.

18 Dated: October 26, 2015

19 /s/ Barbara A. McAuliffe
20 UNITED STATES MAGISTRATE JUDGE
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