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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

WILLIAM MACK BRYSON, JR.,
Plaintiff,
v.
HONORABLE CHARLES SAMUELS, JR.,
Defendant.

CASE NO. 1:14-cv-0180 LJO-BAM
**FINDINGS AND RECOMMENDATIONS
RECOMMENDING DISMISSAL OF THIS
CASE**

On February 10, 2014, Plaintiff William Mack Bryson, proceeding *pro se*, filed this suit pursuant to the civil enforcement provision of the Freedom of Information Act. On October 2, 2014, Plaintiff was ordered to fill out an in forma pauperis (“IFP”) application, or pay the \$400.00 filing fee, within forty-five (45) days, or on or before November 16, 2014. To date, Plaintiff has not filed an IFP application, or paid the filing fee as ordered.

DISCUSSION

Local Rule 11-110 provides that “a failure of counsel or of a party to comply with these Local Rules or with any order of the Court may be grounds for the imposition by the Court of any and all sanctions . . . within the inherent power of the Court. District courts have the inherent power to control their dockets and in the exercise of that power, they may impose sanctions

1 including, where appropriate . . . dismissal of a case.” *Thompson v. Housing Auth.*, 782 F.2d 829,
2 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to
3 prosecute an action, failure to obey a court order, or failure to comply with local rules. See, e.g.,
4 *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local
5 rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply
6 with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th
7 Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court
8 apprized of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal
9 for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.
10 1986) (dismissal for lack of prosecution and failure to comply with local rules). In determining
11 whether to dismiss an action for lack of prosecution, failure to obey a court order, or failure to
12 comply with local rules, the court must consider several factors: (1) the public’s interest in
13 expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of
14 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and
15 (5) the availability of less drastic alternatives. *Ghazali*, 46 F.3d at 53; *Ferdik*, 963 F.2d at 1260-
16 61; *Malone*, 833 F.2d at 130; *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24.

19 In the instant case, the Court finds that the public’s interest in expeditiously resolving this
20 litigation and the Court’s interest in managing the docket weigh in favor of dismissal because this
21 case has been pending in this Court since February 10, 2014, and Plaintiff has not paid the filing
22 fee or filed an IFP application. The third factor, risk of prejudice to defendants, also weighs in
23 favor of dismissal because a presumption of injury arises from any unreasonable delay in
24 prosecuting an action. *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
25 factor, public policy favoring disposition of cases on their merits, is greatly outweighed by the
26 factors in favor of dismissal. Finally, a court’s warning to a party that his or her failure to obey
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1 the court's order will result in dismissal satisfies the "consideration of alternatives" requirement.
2 *Ferdik*, 963 F.2d at 1262; *Malone*, 833 at 132-33; *Henderson*, 779 F.2d at 1424. The Court's
3 order was clear that dismissal would result for failure to comply with the Court's order. (Doc. 2).

4 **RECOMMENDATIONS**

5 Accordingly, the Court HEREBY RECOMMENDS that this action be DISMISSED for
6 Plaintiff's failure to comply with a court order.
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8 This Findings and Recommendation is submitted to the United States District Court
9 Judge, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B). Within fifteen (15) days
10 after being served with a copy, Plaintiff may file written objections with the court. Such a
11 document should be captioned "Objections to Magistrate Judge's Findings and
12 Recommendation." The Court will then review the Magistrate Judge's ruling pursuant to 28
13 U.S.C. § 636(b)(1)(C). Plaintiff is advised that failure to file objections within the specified time
14 may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
15 1991).

16
17 IT IS SO ORDERED.

18 Dated: January 8, 2015

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