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

RAYMOND E. JENKINS,  
Plaintiff,  
v.  
CDCR, et al.,  
Defendants.

Case No. 1:14-cv-00482 DLB PC  
ORDER DISMISSING ACTION FOR  
FAILURE TO PROSECUTE AND FAILURE  
TO STATE A CLAIM

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Plaintiff Raymond E. Jenkins, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 1, 2014.<sup>1</sup>

On February 23, 2015, the Court issued an order dismissing the complaint for failure to state a claim. Plaintiff was granted thirty (30) days to file an amended complaint. On March 16, 2015, the order served on Plaintiff was returned by the United States Postal Service as undeliverable.

Plaintiff is required to keep the Court apprised of his current address at all times, and Local Rule 183(b) provides, “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 to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.” Federal Rule of Civil Procedure 41(b) also provides for

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<sup>1</sup> Plaintiff consented to the jurisdiction of the Magistrate Judge pursuant to 28 U.S.C. § 636(c) on April 11, 2014.

1 dismissal of an action for failure to prosecute.<sup>2</sup>

2 Plaintiff's address change was due by May 26, 2015, but he failed to file one and he has  
3 not otherwise been in contact with the Court. "In determining whether to dismiss an action for  
4 lack of prosecution, the district court is required to consider several factors: (1) the public's  
5 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the  
6 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their  
7 merits; and (5) the availability of less drastic sanctions." *Carey v. King*, 856 F.2d 1439, 1440 (9th  
8 Cir. 1988) (internal quotation marks and citation omitted); *accord Omstead v. Dell, Inc.*, 594 F.3d  
9 1081, 1084 (9th Cir. 2010); *In re Phenylpropanolamine (PPA) Products Liability Litigation*, 460  
10 F.3d 1217, 1226 (9th Cir. 2006). These factors guide a court in deciding what to do, and are not  
11 conditions that must be met in order for a court to take action. *In re PPA*, 460 F.3d at 1226  
12 (citation omitted).

13 This case has been pending since 2014, and the expeditious resolution of litigation and the  
14 Court's need to manage its docket weigh in favor of dismissal. *Id.* at 1227. Further, the opposing  
15 party is necessarily prejudiced when he is unaware of the plaintiff's location during the discovery  
16 phase of the litigation. *Id.*

17 With respect to the fourth factor, "public policy favoring disposition of cases on their  
18 merits strongly counsels against dismissal," but "this factor lends little support to a party whose  
19 responsibility it is to move a case toward disposition on the merits but whose conduct impedes  
20 progress in that direction." *Id.* at 1228.

21 Finally, given the Court's inability to communicate with Plaintiff, there are no other  
22 reasonable alternatives available to address Plaintiff's failure to prosecute. *In re PPA*, 460 F.3d at  
23 1228-29; *Carey*, 856 F.2d at 1441.

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28 <sup>2</sup> 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).

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**ORDER**

Accordingly, IT IS HEREBY ORDERED that this action is DISMISSED for failure to state a claim and failure to prosecute. Fed. R. Civ. P. 41(b); Local Rule 183(b).

This terminates this action in its entirety.

IT IS SO ORDERED.

Dated: May 28, 2015

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE