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

ISMAEL LOPEZ-RANGEL,

Plaintiff,

v.

PAUL COPENHAVER, et al.,

Defendants.

Case No. 1:14-cv-01175 DLB PC

ORDER DISMISSING ACTION  
WITHOUT PREJUDICE

Plaintiff Ismael Lopez-Rangel (“Plaintiff”), a federal prisoner proceeding pro se and in forma pauperis, filed this civil action on July 28, 2014, pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), which provides a remedy for violation of civil rights by federal actors.<sup>1</sup>

In a December 19, 2014, filing, Plaintiff indicated that he is a citizen of Mexico and would be deported upon release, which was within six months. Plaintiff asked that his case be expedited in light of his upcoming release and deportation.

On January 22, 2015, the Court screened the complaint and dismissed it with leave to amend. Plaintiff filed his amended complaint on March 2, 2015.

According to the Bureau of Prisons Inmate Locator, Plaintiff was released from custody on May 4, 2015.

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<sup>1</sup> Plaintiff consented to the jurisdiction of the United States Magistrate Judge on August 13, 2014.

1 Based on Plaintiff's notice to the Court of his upcoming release and deportation, as well as  
2 his May 5, 2015, release, the Court issued an order to show cause on September 16, 2015, why the  
3 action should not be dismissed for Plaintiff's failure to file a notice of change of address.

4 On September 23, 2015, the order to show cause was returned by the United States Postal  
5 Service with a notation, "Undeliverable. No longer at this facility."

6 Plaintiff has not otherwise communicated with the Court or filed a notice of change of  
7 address.

### 8 DISCUSSION

9 Plaintiff is required to keep the Court apprised of his current address at all times, and Local  
10 Rule 183(b) provides, "If mail directed to a plaintiff *in propria persona* by the Clerk is returned by  
11 the U.S. Postal Service, and if such plaintiff fails to notify the Court and opposing parties within  
12 sixty-three (63) days thereafter of a current address, the Court may dismiss the action without  
13 prejudice for failure to prosecute." Federal Rule of Civil Procedure 41(b) also provides for dismissal  
14 of an action for failure to prosecute.<sup>2</sup>

15 Plaintiff's address change was due by November 25, 2015, but he failed to file one and he  
16 has not otherwise been in contact with the Court. Fed. R. Civ. P. 6(d); Local Rule 183(b). "In  
17 determining whether to dismiss an action for lack of prosecution, the district court is required to  
18 consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the  
19 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
20 favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions."  
21 *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988) (internal quotation marks and citation omitted);  
22 *accord Omstead v. Dell, Inc.*, 594 F.3d 1081, 1084 (9th Cir. 2010); *In re Phenylpropanolamine*  
23 *(PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006). These factors guide a  
24 court in deciding what to do, and are not conditions that must be met in order for a court to take  
25 action. *In re PPA*, 460 F.3d at 1226 (citation omitted).

26 The expeditious resolution of litigation and the Court's need to manage its docket weigh in  
27 favor of dismissal. *Id.* at 1227. Further, an opposing party is necessarily prejudiced by the aging of

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).

1 a case left to idle indefinitely as a result of the plaintiff's disinterest in either moving forward or  
2 taking action to dismiss the case. *Id.*

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

7 Finally, given the Court's inability to communicate with Plaintiff, there are no other  
8 reasonable alternatives available to address Plaintiff's failure to prosecute. *In re PPA*, 460 F.3d at  
9 1228-29; *Carey*, 856 F.2d at 1441.

10 **ORDER**

11 Accordingly, the Court HEREBY DISMISSES this action, without prejudice, based on  
12 Plaintiff's failure to prosecute by keeping the Court apprised of his current address. Fed. R. Civ. P.  
13 41(b); Local Rule 183(b).

14 IT IS SO ORDERED.

15  
16 Dated: December 9, 2015

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE