

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ENRIQUE ZAMORA SANCHEZ,
Petitioner,
v.
JAMES TILTON, DIRECTOR,
CALIFORNIA DEPARTMENT OF
CORRECTIONS AND
REHABILITATION,
Respondent.

No. C 06-7310 JSW (PR)
ORDER OF DISMISSAL
(Docket No. 15)

Petitioner filed this petition for a writ of habeas corpus under 28 U.S.C. § 2254 which was transferred to this district from the United States District Court for the Eastern District of California on November 28, 2006. This Court initially dismissed the petition with leave to amend within thirty days (docket no. 6). In the Court's order, Petitioner was warned that failure to notify the Court of a change of address may result in dismissal of this action without prejudice.

On October 26, 2009, this Court ordered Respondent to show cause why the petition should not be granted (docket no. 13). Thereafter, the Court's order was returned with a notification that Petitioner was no longer incarcerated at the facility address he had provided to the Court and they were unable to forward the Court's order to him. More than 60 days have passed since the Court's order and Petitioner has not contacted the Court to provide a change of address.


A district court may sua sponte dismiss an action for failure to prosecute or to

1 comply with a court order pursuant to Federal Rule of Civil Procedure 41(b). *See Link v.*
2 *Wabash R.R.*, 370 U.S. 626, 633 (1962); *McKeever v. Block*, 932 F.2d 795, 797 (9th Cir.
3 1991). Pursuant to Northern District Local Rule 3-11 an attorney or party proceeding pro
4 se whose address changes while an action is pending must promptly file and serve upon
5 all opposing parties a notice of change of address specifying the new address. *See* L.R. 3-
6 11(a). The court may, without prejudice, dismiss a complaint or strike an answer when:
7 (1) mail directed to the attorney or the pro se party by the court has been returned to the
8 court as not deliverable, and (2) the court fails to receive within 60 days of this return a
9 written communication from the attorney or pro se party indicating a current address. *See*
10 L.R. 3-11(b); *see also Carey v. King*, 856 F.2d 1439, 1441 (9th Cir. 1988) (affirming
11 dismissal with prejudice of pro se prisoner's complaint for failing to notify court of his
12 change of address despite local rule providing that case be dismissed without prejudice
13 because any lesser sanction would impose affirmative obligation for district courts to
14 track down pro se prisoners).

15 Accordingly, Petitioner's action is hereby dismissed without prejudice for failure
16 to prosecute and to comply with the local rules regarding changes of address. *See Link*,
17 370 U.S. at 633; *McKeever*, 932 F.2d at 797; *Carey*, 856 F.2d at 1441. The Clerk shall
18 terminate any pending motions as moot, close the file and enter judgment in this matter.

19 IT IS SO ORDERED.

20 DATED: January 14, 2010



JEFFREY S. WHITE
United States District Judge

1
2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA
5

6 ENRIQUE ZAMORA SANCHEZ,

Case Number: CV06-07310 JSW

7 Plaintiff,

CERTIFICATE OF SERVICE

8 v.

9 JAMES TILTON et al,


10 Defendant.
11 _____/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on January 14, 2010, I SERVED a true and correct copy(ies) of the attached, by placing
15 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
16 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office
17 delivery receptacle located in the Clerk's office.

18 Enrique Zamora Sanchez
19 El Centro Processing Center
20 A90-547-562
21 Prisoner ID V09866
22 1115 North Imperial Avenue
23 El Centro, CA 92243-1739

24 Dated: January 14, 2010


25 Richard W. Wieking, Clerk
26 By: Jennifer Ottolini, Deputy Clerk
27
28