

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

5 IMHOTEP JORDAN, JR.,
 6 Plaintiff,

No. C 11-06314 SBA (PR)

7 v.

**ORDER DIRECTING PLAINTIFF TO
 SHOW CONTINUED INTENT TO
 PROSECUTE THIS ACTION**

8 JUDGE SAUNDRA B. ARMSTRONG,
 9 Defendant.

10
 11 Plaintiff commenced the instant pro se action under 42 U.S.C. § 1983 by filing a document
 12 on December 14, 2011 entitled, "Instrument of Certification of Judicial Breach of Contractual Oath
 13 of Office By: Unclean Hands, Fraudulent Concealment, Fraud, Misapplication of State and Federal
 14 Law, Corruption, Misprison [sic], Malfeasance of Office, Interference, Denial, Abrogation,
 15 Infringement Upon Judgment Creditors God Vested Sovereign Sentient Rights and Freedoms Under
 16 Color of Law. Demand for Certified Response."¹ (Pl.'s Dec. 14, 2011 Filing at 1 (emphasis in
 17 original).) Also on December 14, 2011, the Clerk sent Plaintiff a notice directing him to pay the
 18 filing fee or to file a completed in forma pauperis application. The Clerk sent Plaintiff a second
 19 notice directing him to file a completed civil rights complaint form. Finally, the Clerk sent Plaintiff
 20 a copy of his aforementioned December 14, 2011 filing.

21 Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua sponte dismiss an
 22 action for failure to prosecute or to comply with a court order. See Link v. Wabash R.R., 370 U.S.
 23 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir. 1991). But such a dismissal

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 25 ¹ The Court notes that the aforementioned document filed in the instant case lists the
 26 undersigned judge as a defendant. Though not entirely clear, Plaintiff appears to express disagreement
 27 with the undersigned judge's handing of his "Request for Entry of Default Judgment," which was filed
 28 in Case No. C 11-2668 SBA (PR). (Pl.'s Dec. 14, 2011 Filing at 1.) If Plaintiff intends to bring an
 action against the undersigned judge pursuant to 42 U.S.C. §1983, the Court reminds him that federal
 judges are absolutely immune from these claims. See Moore v. Brewster, 96 F.3d 1240, 1243 (9th Cir.
 1996); Mullis v. U.S. Bankruptcy Court, 828 F.2d 1385, 1394 (9th Cir. 1987) (applying judicial
 immunity to actions under Bivens), cert. denied, 486 U.S. 1040 (1988). This is because if a federal
 judge violates a litigant's constitutional rights in a proceeding pending in federal court, Congress has
 provided carefully structured procedures for taking appeals and for petitioning for extraordinary writs
 in Title 28 of the United States Code. See id.

1 should only be ordered when the failure to comply is unreasonable. See id. A district court should
2 afford the litigant prior notice of its intention to dismiss. See Malone v. United States Postal Serv.,
3 833 F.2d 128, 133 (9th Cir. 1987).

4 In the instant case, Plaintiff has failed to communicate with the Court since he filed this
5 action. On January 3, 2012 and again on January 6, 2012, mail sent to Plaintiff was returned as
6 undeliverable with the notation: "Returned to Sender -- Refused," as well as additional handwritten
7 notations: "Inmate Refused Mail on 12-29-11," and "Inmate Refused on 1-3-12," respectively.

8 Accordingly, it is in the interests of justice and judicial efficiency for the Court to establish
9 whether Plaintiff intends to continue to prosecute this action. Plaintiff shall file a notice of his
10 continued intent to prosecute no later than **thirty (30) days** of the date of this Order. Failure to do so
11 will result in the dismissal of this action without prejudice for failure to prosecute under Rule 41(b) of
12 the Federal Rules of Civil Procedure. See Malone, 833 F.2d at 133 (the district court should afford
13 the litigant prior notice before dismissing for failure to prosecute).

14 IT IS SO ORDERED.

15 DATED: 1/19/12


SAUNDRA BROWN ARMSTRONG
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

IMHOTEP JORDAN JR,
Plaintiff,

Case Number: CV11-06314 SBA
CERTIFICATE OF SERVICE

v.

SAUNDRA B ARMSTRONG et al,
Defendant.

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

That on January 23, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Imhotep Jordan C-71742
Calipatria State Prison
P.O. Box 5002
Calipatria, CA 92233

Dated: January 23, 2012

Richard W. Wiekling, Clerk
By: LISA R CLARK, Deputy Clerk