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NOT FOR CITATION  
IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 REX MCCURDY, ) No. C 06-02830 JF (PR)  
13 Plaintiff, ) ORDER OF DISMISSAL  
14 vs. )  
15 GARY SIMPSON, et al., )  
16 Defendants. )  
17

18 Plaintiff filed the instant pro se civil rights complaint under 42 U.S.C. § 1983. A  
19 copy of the Court's "Order Addressing Pending Motions" (Docket No. 50) was mailed to  
20 Plaintiff at his last known address, but the order was returned on March 31, 2009, as  
21 undeliverable because Plaintiff was no longer in custody. (See Docket No. 51.) The  
22 Court ordered Plaintiff by order filed April 29, 2009, to inform the Court of his current  
23 address no later than thirty days from the date the order was filed. Plaintiff was advised  
24 that failure to timely do so shall result in dismissal of this action without prejudice under  
25 Federal Rule of Civil Procedure 41(b) and Local Rule 3-11(b). The time has since  
26 passed, and Plaintiff has failed to comply.

27 Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua sponte  
28 dismiss an action for failure to prosecute or to comply with a court order. See Link v.

1 Wabash R.R., 370 U.S. 626, 633 (1962); McKeever v. Block, 932 F.2d 795, 797 (9th Cir.  
2 1991). But such a dismissal should only be ordered when the failure to comply is  
3 unreasonable. See id. A district court should afford the litigant prior notice of its  
4 intention to dismiss. See Malone v. United States Postal Serv., 833 F.2d 128, 133 (9th  
5 Cir. 1987).

6 Pursuant to Northern District Local Rule 3-11 a party proceeding pro se must  
7 promptly file a notice of change of address while an action is pending. See L.R. 3-11(a).  
8 The Court may, without prejudice, dismiss a complaint when: (1) mail directed to the pro  
9 se party by the Court has been returned to the Court as not deliverable, and (2) the Court  
10 fails to receive within sixty days of this return a written communication from the pro se  
11 party indicating a current address. See L.R. 3-11(b).

12 Plaintiff has failed to comply with the Court's order to provide his current address,  
13 and provided with notice of the Court's intention to dismiss. Furthermore, more than  
14 sixty days have passed since the Court's orders addressed to Plaintiff were returned as  
15 undeliverable, and the Court has not received a notice from Plaintiff of a new address.  
16 Accordingly, the instant civil rights action is DISMISSED without prejudice pursuant to  
17 Federal Rule of Civil Procedure 41(b) and Local Rule 3-11(b) of the Northern District  
18 Local Rules.

19 IT IS SO ORDERED.

20  
21 DATED: 6/5/09

22   
JEREMY FOGEL  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

REX A. MCCURDY,  
Plaintiff,

Case Number: CV06-02830 JF

**CERTIFICATE OF SERVICE**

v.

GARY L. SIMPSON, et al.,  
Defendants.

\_\_\_\_\_/

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 6/19/09, 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.

Rex A. McCurdy 000035-6  
Napa County Jail  
1111 Third Street  
Napa, CA 94559

Dated: 6/19/09

Richard W. Wieking, Clerk