

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

ROYLAND RICE,

Plaintiff,

v.

RYAN WAGNER, et al.,

Defendants.

) No. C 11-06295 EJD (PR)

) ORDER DIRECTING PLAINTIFF TO
) FILE A NOTICE OF INTENT TO
) PROSECUTE AND TO PROVIDE
) COURT WITH CURRENT ADDRESS;
) DIRECTING PLAINTIFF TO FILE *IN*
) *FORMA PAUPERIS* APPLICATION
) OR PAY FILING FEE
)

Plaintiff filed the instant pro se civil rights action complaint under 42 U.S.C. § 1983. Plaintiff’s last communication with the Court was on December 6, 2011, when he filed the instant action. The Court notes that Plaintiff did not pay the filing fee or file an In Forma Pauperis (“IFP”) Application.

Pursuant to Federal Rule of Civil Procedure 41(b), a district court may sua sponte dismiss an action for failure to prosecute or to comply with a court order. See Link v. Wabash R.R., 370 U.S. 626, 633 (1962); McKeever v. Block, 932, F.2d 795, 797 (9th Cir. 1991). But such dismissal should only be ordered when the failure to comply is unreasonable. See id. A court should afford the litigant prior notice of its intention to dismiss. See Malone v. United States Postal Serv., 833 F.2d 128, 133 (9th Cir. 1987). Furthermore, pursuant to Northern District Local Rule 3-11, a party proceeding pro se


1 whose address changes while an action is pending must promptly file and serve upon all
2 opposing parties a notice of change of address specifying the new address. See L.R. 3-
3 11(a).

4 Plaintiff has not communicated with the Court since filing the instant action.
5 Proceeding forward by requiring defendants to file an answer or a dispositive motion is
6 fruitless if Plaintiff cannot be located by the Court. In the interests of justice and judicial
7 efficiency, the Court will not proceed with this action until Plaintiff informs the Court of
8 his continued intent to prosecute this action. Accordingly, **no later than thirty (30) days**
9 from the date of this order, Plaintiff shall file with the Court a notice of his continued
10 intent to prosecute this action and his current address. Should Plaintiff fail to file such
11 notice in the time provided, the complaint will be dismissed without prejudice for failure
12 to prosecute. See Fed. R. Civ. P. 41(b).

13 Furthermore, Plaintiff must either pay the full filing fee or file an IFP Application
14 to proceed with this action. Plaintiff shall submit a complete IFP application **no later**
15 **than thirty (30) days** from the date this order is filed. Failure to file an IFP application,
16 or pay the full filing fee, in the time provided will result in the dismissal without
17 prejudice of this action without further notice to Plaintiff.

18 The Clerk shall include a copy of the court's IFP Application with a copy of this
19 order to Plaintiff.

20
21 DATED: 4/5/2013


EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ROYLAND RICE,
Plaintiff,

Case Number: CV11-06295 EJD

CERTIFICATE OF SERVICE

v.

RYAN WAGNER, 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 4/8/2013, 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.

Royland Rice UEQ - 820
The Glenn E. Dyer Detention Facility
550 - 6th Street
Oakland, CA 94607

Dated: 4/8/2013

Richard W. Wieking, Clerk
/s/ By: Elizabeth Garcia, Deputy Clerk