

UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

MILES THOMAS,

Plaintiff,

vs.

WAIANAЕ COAST COMPREHENSIVE,
JUSTIN DIEGO, PATRICK MURRAY,
SHIRLEY TAMORIA,

Defendants.

CIV. NO. 24-00347 LEK-KJM

ORDER DISMISSING CASE WITH PREJUDICE

On August 12, 2024, pro se Plaintiff Miles Thomas ("Plaintiff") filed the Complaint for a Civil Case ("Complaint") and an Application to Proceed in District Court Without Prepaying Fees or Costs ("Application"). [Dkt. nos. 1, 3.] On September 17, 2024, the Court issued an order dismissing Plaintiffs' Complaint with leave to amend, and reserving ruling on the Application. [Dkt. no. 5.¹] The deadline for Plaintiffs to file an amended complaint was November 18, 2024. [Id. at 8.]

As of the date of this Order, Plaintiff has neither filed an amended complaint nor requested an extension of the filing deadline. Because Plaintiff has not identified any circumstance which constitutes good cause warranting an extension of the November 18, 2024 deadline, this Court has the

¹ The order is also available at 2024 WL 4225929.

discretion to dismiss the Complaint with prejudice. See Yourish v. Cal. Amplifier, 191 F.3d 983, 988 (9th Cir. 1999) (holding that the plaintiff's failure to comply with a minute order setting forth the deadline to file the amended complaint gave the district court the discretion to dismiss the case under Fed. R. Civ. P. 41(b)),² *superseded by statute on other grounds as recognized in Russel v. United States*, Case No.: 21cv1029-LL-MDD, 2023 WL 2919319, at *3 (S.D. Cal. Apr. 12, 2023). After weighing the five dismissal factors set forth in Dreith v. Nu Image, Inc., 648 F.3d 779, 788 (9th Cir. 2011),³ this Court finds that the public interest in the expeditious resolution of this litigation and this Court's interest in managing its docket strongly outweigh the policy favoring disposition of Plaintiff's claims on the merits. Moreover, the defendants will not be

² Fed. R. Civ. P. 41(b) states, in pertinent part: "If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it."

³ The Ninth Circuit has

identified five factors that a district court must consider before dismissing a case . . . : (1) the public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the other party; (4) the public policy favoring the disposition of cases on their merits; and (5) the availability of less drastic sanctions.

Dreith, 648 F.3d at 788 (citation and internal quotation marks omitted).

prejudiced by the dismissal because Plaintiff did not serve the Complaint, and there are no less drastic alternatives available at this time.

The claims in Plaintiffs' Complaint, which the Court previously dismissed without prejudice, are HEREBY DISMISSED WITH PREJUDICE. The Court DIRECTS the Clerk's Office to enter final judgment and close the case on **December 11, 2024**.

IT IS SO ORDERED.

DATED AT HONOLULU, HAWAII, November 26, 2024



/s/ Leslie E. Kobayashi

Leslie E. Kobayashi

Senior U.S. District Judge

MILES THOMAS VS. WAIANAE COAST COMPREHENSIVE, ET AL; CV 24-00347
LEK-KJM; ORDER: DISMISSING CASE WITH PREJUDICE