

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 CHRISTOPHER S. HUNTER,

Case No.: 2:14-cv-01560-APG-VCF

4 Plaintiff

**Order Granting Unopposed Motion to
Dismiss**

5 v.

[ECF No. 69]

6 CLARK COUNTY DETENTION CENTER,

7 et al.,

8 Defendants

9 Defendant Naphcare, Inc. filed a motion to dismiss plaintiff Christopher Hunter’s claims
10 against it because Hunter has failed to prosecute this case. ECF No. 69. The only other
11 remaining defendant, Darren McArthur, filed a joinder. ECF No. 71. Hunter did not respond to
12 the motion or the joinder. I therefore grant the motion and joinder as unopposed. LR 7-2(d).

13 Further, the motion is meritorious. Hunter’s former pro bono counsel withdrew because
14 he could not communicate with Hunter and discovery was overdue. ECF Nos. 62, 65. Magistrate
15 Judge Ferenbach ordered Hunter to retain counsel or file a notice of appearing pro se by May 4,
16 2018. ECF No. 65. Hunter did not do so.

17 A defendant may move to dismiss a complaint under Federal Rule of Civil Procedure
18 41(b) for failure to prosecute. I “weigh five factors to determine whether to dismiss a case for
19 lack of prosecution: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s
20 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
21 favoring the disposition of cases on their merits; and (5) the availability of less drastic
22 sanctions.” *In re Eisen*, 31 F.3d 1447, 1451 (9th Cir. 1994). Whether to grant the motion lies
23 within my discretion. *Id.*

1 The public's interest in expeditious resolution of litigation and the court's need to
2 manage its docket weigh in favor of dismissal. This case has been pending since 2014. Hunter
3 ceased communicating with his counsel and has made no appearance of any kind in this case
4 since March of this year. The defendants will be prejudiced because discovery they propounded
5 apparently was overdue when pro bono counsel withdrew in March, and still has not been
6 answered. Discovery closes within a week. ECF No. 60. The public policy favoring the
7 disposition of cases on their merits weighs against dismissal, as it always does. But there are no
8 less drastic sanctions available. Hunter has simply stopped participating in this case.

9 IT IS THEREFORE ORDERED defendant Naphcare, Inc.'s motion to dismiss (**ECF No.**
10 **69**) and defendant Darren McArthur's joinder (**ECF No. 71**) **are GRANTED**. The clerk of
11 court is instructed to enter judgment in favor of defendants Naphcare, Inc. and Darren McArthur
12 and against plaintiff Christopher Hunter.

13 DATED this 23rd day of August, 2018.

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16 ANDREW P. GORDON
17 UNITED STATES DISTRICT JUDGE
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