

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

RICHARD LEE CANTERBURY,

Case No. 2:17-cv-00211-MMD-NJK

Plaintiff,

ORDER

CLARK COUNTY DETENTION CENTER
et al.,

Defendants.

15 This action is a *pro se* amended civil rights complaint filed pursuant to 42 U.S.C. §
16 1983 by an inmate in the custody of the Nevada Southern Detention Center. On January
17 24, 2018, the Court issued an order dismissing the amended complaint with leave to
18 amend and directed Plaintiff to file a second amended complaint within thirty (30) days.
19 (ECF No. 21 at 9.) The thirty-day period has now expired, and Plaintiff has not filed a
20 second amended complaint or otherwise responded to the Court's order.

21 District courts have the inherent power to control their dockets and “[i]n the
22 exercise of that power, they may impose sanctions including, where appropriate . . .
23 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831
24 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure
25 to prosecute an action, failure to obey a court order, or failure to comply with local rules.
26 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
27 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
28 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856

1 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
2 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
3 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
4 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
5 failure to comply with local rules).

6 In determining whether to dismiss an action for lack of prosecution, failure to obey
7 a court order, or failure to comply with local rules, the court must consider several factors:
8 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
9 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
10 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
11 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
12 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

13 In the instant case, the Court finds that the first two factors, the public's interest in
14 expeditiously resolving this litigation and the Court's interest in managing the docket,
15 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
16 in favor of dismissal, since a presumption of injury arises from the occurrence of
17 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
18 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor — public policy
19 favoring disposition of cases on their merits — is greatly outweighed by the factors in
20 favor of dismissal discussed herein. Finally, a court's warning to a party that his failure to
21 obey the court's order will result in dismissal satisfies the "consideration of alternatives"
22 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
23 at 1424. The Court's order requiring Plaintiff to file a second amended complaint within
24 thirty days expressly stated: "It is further ordered that, if Plaintiff fails to file a second
25 amended complaint curing the deficiencies outlined in this order, this action will be
26 dismissed with prejudice for failure to state a claim." (ECF No. 21 at 9.) Thus, Plaintiff had
27 adequate warning that dismissal would result from his noncompliance with the Court's
28 order to file a second amended complaint within thirty (30) days.

1 It is therefore ordered that this action is dismissed with prejudice based on
2 Plaintiff's failure to file a second amended complaint in compliance with this Court's
3 January 24, 2018, order and for failure to state a claim.

4 It is further ordered that the Clerk of Court enter judgment accordingly.

DATED THIS 6th day of March 2018.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE