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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

GIOVANNI KURTZE,  
  
  Plaintiff,  
  
          v.  
  
JOE LOMBARDO,  
  
  Defendants.

Case No. 2:17-cv-01055-RFB-CWH

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a former inmate. On April 4, 2018, this Court issued an order directing Plaintiff to file his updated address with this Court within thirty (30) days. (ECF No. 5 at 2.) The thirty-day period has now expired, and Plaintiff has not filed his updated address or otherwise responded to the Court’s order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*

1 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and  
2 failure to comply with local rules).

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

10 In the instant case, the Court finds that the first two factors, the public's interest in  
11 expeditiously resolving this litigation and the Court's interest in managing the docket,  
12 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
13 in favor of dismissal, since a presumption of injury arises from the occurrence of  
14 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See  
15 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy  
16 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor  
17 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
18 the court's order will result in dismissal satisfies the "consideration of alternatives"  
19 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
20 F.2d at 1424. The Court's order requiring Plaintiff to file his updated address with the  
21 Court within thirty (30) days expressly stated: "It is further ordered that failure to comply  
22 with this order will result in a recommendation that the case be dismissed without  
23 prejudice." (ECF No. 5 at 2). Thus, Plaintiff had adequate warning that dismissal would  
24 result from his noncompliance with the Court's order to file his updated address within  
25 thirty (30) days.

26 IT IS THEREFORE ORDERED that this action is dismissed without prejudice  
27 based on Plaintiff's failure to file an updated address in compliance with this Court's April  
28 4, 2018 order.

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IT IS FURTHER ORDERED that Plaintiff's applications to proceed *in forma pauperis* (ECF No. 1, 3, 4) are denied as moot.

IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment accordingly and close this case.

DATED this 11th day of May, 2018.



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RICHARD F. BOULWARE, II  
UNITED STATES DISTRICT JUDGE