

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3  
4 Kevin Fullre,  
5 Plaintiff  
6 v.  
7 State of Nevada, et al.,  
8 Defendants

2:17-cv-02889-JAD-NJK

**Order Dismissing Case**

[ECF No. 1]

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10 Pro se petitioner Kevin Fullre filed an application to proceed *in forma pauperis*, but he  
11 failed to file an accompanying complaint.<sup>1</sup> Magistrate Judge Koppe ordered Mr. Fullre to file a  
12 complaint by December 21, 2017, and warned him that failure to do so may result in his case  
13 getting dismissed.<sup>2</sup> That deadline has passed and Fullre has still not filed a complaint.

14 District courts have the inherent power to control their dockets and “[i]n the exercise of  
15 that power, they may impose sanctions including, where appropriate, . . . dismissal” of a case.<sup>3</sup> A  
16 court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a  
17 court order, or failure to comply with local rules.<sup>4</sup> In determining whether to dismiss an action  
18 for lack of prosecution, failure to obey a court order, or failure to comply with local rules, the  
19 court must consider several facts: (1) the public’s interest in expeditious resolution of litigation;

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22 <sup>1</sup> See generally docket report case no. 2:17-cv-02889-JAD-NJK.

23 <sup>2</sup> ECF No. 3.

24 <sup>3</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

25 <sup>4</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
26 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
27 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439,  
28 1440–41 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson v.*  
*Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to  
comply with local rules).


1 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the  
2 public policy favoring disposition of cases on their merits; and (5) the availability of less drastic  
3 alternatives.<sup>5</sup>

4 I find that the first two factors weigh in favor of dismissal. The risk-of-prejudice factor  
5 also weighs in favor of dismissal because a presumption of injury arises from the occurrence of  
6 unreasonable delay in filing a pleading ordered by the court or prosecuting an action.<sup>6</sup> A court's  
7 warning to a party that failing to obey the court's order will result in dismissal satisfies the  
8 consideration-of-alternatives requirement,<sup>7</sup> and Fullre was expressly warned that dismissal could  
9 result if he failed to file a complaint by December 21, 2017. Although the fourth factor weighs  
10 against dismissal, it is greatly outweighed by those favoring dismissal.

11 Accordingly, IT IS HEREBY ORDERED that this **action is DISMISSED** without  
12 prejudice to Fullre's ability to file a complaint in a new, separate case.

13 IT IS FURTHER ORDERED that Fullre's application to proceed *in forma pauperis*  
14 **[ECF No. 1]** is **DENIED as moot**.

15 DATED: January 2, 2018.

16   
17 U.S. District Judge Jennifer A. Dorsey

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26 <sup>5</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130; *Ferdik*,  
963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

27 <sup>6</sup> *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

28 <sup>7</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.