

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JERROD BISCOE,
Plaintiff,
v.
KENTON EIUCHER et al.,
Defendants.

Case No. 2:18-cv-00463-RFB-GWF
ORDER

This action is a pro se civil rights complaint filed under 42 U.S.C. § 1983. On January 9, 2019, this Court issued an order directing Plaintiff to file his updated address with this Court within thirty (30) days. (ECF No. 18). 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 v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

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

8 In the instant case, the Court finds that the first two factors, the public's interest in
9 expeditiously resolving this litigation and the Court's interest in managing the docket,
10 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
11 in favor of dismissal, since a presumption of injury arises from the occurrence of
12 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
13 Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
14 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
15 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
16 the court's order will result in dismissal satisfies the "consideration of alternatives"
17 requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at 132-33; Henderson, 779
18 F.2d at 1424. The Court's January 9, 2019 order expressly stated: "Plaintiff must file with
19 the Court written notification of his current mailing address within 30 days or risk dismissal
20 of this action under LR IA 3-1." (ECF No. 6 at 2). Thus, Plaintiff had adequate warning
21 that dismissal could result from his noncompliance with the Court's order to file his
22 updated address within thirty (30) days.

23 IT IS THEREFORE ORDERED that this action is dismissed without prejudice
24 based on Plaintiff's failure to file an updated address in compliance with this Court's
25 January 9, 2019 order.

26 IT IS FURETHER ORDERED that the pending Motion to Dismiss (ECF No. 11) is
27 denied as moot.

28 ///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED this 6th day of March, 2019.



RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE