

## 1 UNITED STATES DISTRICT COURT

## 2 DISTRICT OF NEVADA

3 PAUL JONES,

Case No. 2:20-cv-01450-RFB-NJK

4 Plaintiff

**ORDER**

5 v.

6 STATE OF NEVADA, et al.,

7 Defendants

9

10 Plaintiff, who is incarcerated at Clark County Detention Center, commenced this  
11 action with an incomplete pro se civil rights complaint filed under 42 U.S.C. § 1983. On  
12 August 7, 2020, this Court issued an order directing Plaintiff to file a signed amended  
13 complaint and denying the Plaintiff's application to proceed in forma pauperis, without  
14 prejudice, because the application was incomplete. (ECF No. 3 at 3-4). The Court  
15 ordered Plaintiff to file a signed amended complaint and a complete application to  
16 proceed in forma pauperis or pay the full filing fee of \$400 on or before October 6, 2020.  
17 (*Id.* at 3). Plaintiff failed to comply with the Court's order.

18 District Courts have inherent power to control their dockets and “[i]n the exercise  
19 of that power, they may impose sanctions including, where appropriate . . . dismissal” of  
20 a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir.  
21 1986). A court may dismiss an action, with prejudice, based on a party's failure to  
22 prosecute an action, failure to obey a court order, or failure to comply with local rules.  
23 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for  
24 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir.  
25 1992) (affirming dismissal for failure to comply with an order requiring amendment of  
26 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal  
27 for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of  
28 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming

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

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

11 Here, the Court finds that the first two factors, the public's interest in expeditiously  
12 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
13 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
14 dismissal because a presumption of injury arises from the occurrence of unreasonable  
15 delay in filing a pleading ordered by the court or prosecuting an action. See Anderson v.  
16 Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor is greatly outweighed by  
17 the factors in favor of dismissal discussed herein. Finally, a court's warning to a party  
18 that his failure to obey the court's order will result in dismissal satisfies the "consideration  
19 of alternatives" requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at 132-33;  
20 Henderson, 779 F.2d at 1424. The Court's order requiring Plaintiff to file a signed  
21 amended complaint expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff does  
22 not file a signed amended complaint on or before October 6, 2020, the Court will dismiss  
23 this action without prejudice for Plaintiff to refile the case with the Court, under a new case  
24 number, when Plaintiff is able to file a signed amended complaint." (ECF No. 3 at 3).  
25 Additionally, the Court's order requiring Plaintiff to file another application to proceed in  
26 forma pauperis or pay the full \$400 filing fee on or before October 6, 2020 expressly  
27 stated: "IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete  
28 application to proceed in forma pauperis with all three documents, or pay the full \$400

1 filing fee for a civil action on or before October 6, 2020, the Court will dismiss this action  
2 without prejudice for Plaintiff to refile the case with the Court, under a new case number,  
3 when Plaintiff either has all three documents needed to file a complete application to  
4 proceed in forma pauperis or pays the full \$400 filing fee.” (Id. at 4). Therefore, the  
5 Plaintiff had adequate warning that dismissal would result from his noncompliance with  
6 the Court’s order.

7 IT IS THEREFORE ORDERED that this action is dismissed without prejudice  
8 based on Plaintiff’s failure to file a signed amended complaint and another application to  
9 proceed in forma pauperis or pay the full \$400 filing fee in compliance with this Court’s  
10 order dated August 7, 2020.

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

13 DATED: October 16, 2020



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15 RICHARD F. BOULWARE, II  
16 UNITED STATES DISTRICT JUDGE  
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