

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Vito Sanchez,

Case No. 2:21-cv-00732-JAD-NJK

Plaintiff

V.

F. Dreesen, et. al.,

Order Dismissing and Closing Case

Defendants

Plaintiff Vito Sanchez brings this civil-rights lawsuit to redress constitutional violations claims he suffered while incarcerated at High Desert State Prison. On July 14, 2021, this ordered the plaintiff to either pay the \$402 filing fee or file a complete *in forma pauperis* by August 30, 2021.¹ On July 28, 2021, the plaintiff filed an incomplete application succeed *in forma pauperis*.² Plaintiff's incomplete application did not include a financial statement with an inmate account statement for the previous six-month period or, alternatively, a statement detailing any efforts he took to acquire such financial documents from prison officials. The August 30, 2021, deadline expired without a fully complete application or payment of the filing fee.

District courts have the inherent power to control their dockets and “[i]n the exercise of power, they may impose sanctions including, where appropriate . . . dismissal” of a case.³ A court may dismiss an action based on a party’s failure to prosecute an action, failure to obey a

¹ ECF No. 8.

23 | ² ECF No. 9.

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

1 court order, or failure to comply with local rules.⁴ In determining whether to dismiss an action
 2 on one of these grounds, the court must consider: (1) the public's interest in expeditious
 3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
 4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
 5 availability of less drastic alternatives.⁵

6 The first two factors, the public's interest in expeditiously resolving this litigation and the
 7 court's interest in managing its docket, weigh in favor of dismissal of the plaintiff's claims. The
 8 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a
 9 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading
 10 ordered by the court or prosecuting an action.⁶ A court's warning to a party that its failure to
 11 obey the court's order will result in dismissal satisfies the fifth factor's "consideration of
 12 alternatives" requirement,⁷ and that warning was given here.⁸ The fourth factor—the public
 13 policy favoring disposition of cases on their merits—is greatly outweighed by the factors
 14 favoring dismissal.

15 IT IS THEREFORE ORDERED that **THIS ACTION IS DISMISSED** without prejudice
 16 based on the plaintiff's failure to file a complete application to proceed *in forma pauperis* or pay
 17 the filing fee as ordered. The Clerk of Court is directed to **ENTER JUDGMENT** accordingly
 18 and **CLOSE THIS CASE. No other documents may be filed in this now-closed case.** If
 19

20 ⁴ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
 21 local rule); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for
 22 failure to comply with court order).

23 ⁵ *Malone*, 833 F.2d at 130; *Ghazali*, 46 F.3d at 53.

⁶ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

⁷ *Malone*, 833 F.2d at 132–33.

⁸ ECF No 8 at 4.

1 Vito Sanchez wishes to pursue his claims, he must file a complaint in a new case, and he must
2 either pay the \$402 filing fee or file a complete *in forma pauperis* application in that new case.

3 Dated: September 7, 2021



4 U.S. District Judge Jennifer A. Dorsey

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23