

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MITCHELL KEITH GOODRUM,

Plaintiff

v.

STATE OF NEVADA, *et al.*,

Defendants

Case No. 2:21-cv-01301-RFB-VCF

ORDER

On July 12, 2021, this Court issued an order directing Plaintiff to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before September 10, 2021. (ECF No. 3). On July 28, 2021, July 29, 2021, and August 3, 2021, Plaintiff filed three incomplete applications to proceed *in forma pauperis*. (ECF Nos. 5, 11, 15). Although Plaintiff was provided the correct forms for submission of his application to proceed *in forma pauperis* with the Court's July 12, 2021 order, Plaintiff did not use the correct forms for any of his incomplete application filings. The September 10, 2021 deadline has now expired, and Plaintiff has not filed a fully complete application to proceed *in forma pauperis* or paid the full \$402 filing fee.

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) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming 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) (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, since a presumption of injury arises from the occurrence of unreasonable delay
15 in filing a pleading ordered by the court or prosecuting an action. *See Anderson v. Air*
16 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
17 disposition of cases on their merits—is greatly outweighed by the factors in favor of
18 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
19 the court's order will result in dismissal satisfies the "consideration of alternatives"
20 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779
21 F.2d at 1424. The Court's order requiring Plaintiff to file a fully complete application to
22 proceed *in forma pauperis* or pay the full \$402 filing fee on or before September 10, 2021
23 expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff does not file a fully
24 complete application to proceed *in forma pauperis* with all three documents or pay the full
25 \$402 filing fee for a civil action on or before September 10, 2021, this case will be subject
26 to dismissal without prejudice for Plaintiff to refile the case with the Court, under a new
27 case number, when Plaintiff is has all three documents needed to file a complete
28 application to proceed *in forma pauperis* or pays the the full \$402 filing fee." (ECF No. 3

1 at 3). Thus, Plaintiff had adequate warning that dismissal would result from
2 noncompliance with the Court's order to file a fully complete application to proceed *in*
3 *forma pauperis* or pay the full \$402 filing fee on or before September 10, 2021.

4 IT IS THEREFORE ORDERED that this action is dismissed without prejudice
5 based on Plaintiff's failure to file a fully complete application to proceed *in forma pauperis*
6 or pay the full \$402 filing fee in compliance with this Court's order dated July 12, 2021.
7 (ECF No. 3).

8 IT IS FURTHER ORDERED that all pending motions (ECF Nos. 5, 6, 7, 8, 9, 11,
9 13, 14, 15, 16, and 17) are denied as moot.

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

12 IT IS FURTHER ORDERED that the Plaintiff may move to reopen this case and
13 vacate the judgment by filing a motion for reconsideration of this order. In this motion, the
14 Plaintiff is required to explain what circumstances delayed him from paying the filing fee
15 or filing the IFP application. If the Court finds there to be good cause or a reasonable
16 explanation therein, the Court will reopen the case and vacate the judgment.

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18 DATED: November 18, 2021



19 RICHARD F. BOULWARE, II
20 UNITED STATES DISTRICT JUDGE
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