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3 UNITED STATES DISTRICT COURT  
4 DISTRICT OF NEVADA

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6 SEAN ESCHELBACH,

7 Plaintiff,

8 v.

9 NDOC, *et al.*,

10 Defendants.

Case No. 2:24-cv-01273-GMN-MDC

DISMISSAL ORDER

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12 Plaintiff Sean Eschelbach ("Plaintiff") brings this civil-rights action under 42 U.S.C.  
13 § 1983 to redress constitutional violations that he claims he suffered while incarcerated  
14 at Southern Desert Correctional Center. (ECF No. 4 at 1.) On January 29, 2025, this  
15 Court ordered Plaintiff to update his address and file an application to proceed *in forma*  
16 pauperis by a non-prisoner by February 21, 2025. (ECF No. 7 at 1.) That deadline expired  
17 without an updated address from Plaintiff, and his mail from the Court is being returned  
18 as undeliverable. (See ECF No. 8.) Plaintiff also failed to file an application to proceed *in*  
19 *forma* pauperis by a non-prisoner or pay the full filing fee of \$405.

20 **I. DISCUSSION**

21 District courts have the inherent power to control their dockets and "[i]n the  
22 exercise of that power, they may impose sanctions including, where appropriate . . .  
23 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
24 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court  
25 order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.  
26 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to  
27 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th  
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1 Cir. 1987) (dismissal for failure to comply with court order). In determining whether to  
2 dismiss an action on one of these grounds, the Court must consider: (1) the public's  
3 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;  
4 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of  
5 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*  
6 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting  
7 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

8 The first two factors, the public's interest in expeditiously resolving this litigation  
9 and the Court's interest in managing its docket, weigh in favor of dismissal of Plaintiff's  
10 claims. The third factor, risk of prejudice to defendants, also weighs in favor of dismissal  
11 because a presumption of injury arises from the occurrence of unreasonable delay in filing  
12 a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*, 542  
13 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring disposition of  
14 cases on their merits—is greatly outweighed by the factors favoring dismissal.

15 The fifth factor requires the Court to consider whether less drastic alternatives can  
16 be used to correct the party's failure that brought about the Court's need to consider  
17 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining  
18 that considering less drastic alternatives *before* the party has disobeyed a court order  
19 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th  
20 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that  
21 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court's  
22 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled  
23 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).  
24 Courts “need not exhaust every sanction short of dismissal before finally dismissing a  
25 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779  
26 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed without  
27 the ability for the Court and the defendants to send Plaintiff case-related documents,  
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1 filings, and orders, the only alternative is to enter a second order setting another deadline.  
2 But without an updated address, the likelihood that the second order would even reach  
3 Plaintiff is low, so issuing a second order will only delay the inevitable and further  
4 squander the Court's finite resources. Setting another deadline is not a meaningful  
5 alternative given these circumstances. So the fifth factor favors dismissal.

## 6 **II. CONCLUSION**

7 Having thoroughly considered these dismissal factors, the Court finds that they  
8 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without  
9 prejudice based on Plaintiff's failure to file an updated address and an application to  
10 proceed *in forma pauperis* by a non-prisoner in compliance with this Court's January 29,  
11 2025, order. The Clerk of Court is kindly directed to enter judgment accordingly and close  
12 this case. No other documents may be filed in this now-closed case. If Plaintiff wishes  
13 to pursue his claims, he must file a complaint in a new case and provide the Court with  
14 his current address.

15  
16 March 4, 2025

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19 Gloria M. Navarro, Judge  
20 United State District Court  
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