

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JOHN RUSH,

Case No. 3:15-cv-00331-MMD-VPC

v.

Plaintiff,

## ORDER

DOCTOR HOLMES et al.,

## Defendants.

14 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by  
15 a state prisoner. On September 1, 2016, the Court issued an order directing Plaintiff to  
16 file an updated address with the Court within thirty (30) days. (ECF No. 38 at 1). The  
17 thirty-day period has now expired, and Plaintiff has not filed an updated address with  
18 this Court or otherwise responded to the Court's order.

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

1        *U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply  
2        with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal  
3        for lack of prosecution and failure to comply with local rules).

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

11        In the instant case, the Court finds that the first two factors, the public's interest in  
12        expeditiously resolving this litigation and the Court's interest in managing the docket,  
13        weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
14        in favor of dismissal, since a presumption of injury arises from the occurrence of  
15        unreasonable delay in filing a pleading ordered by the court or prosecuting an action.  
16        See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public  
17        policy favoring disposition of cases on their merits – is greatly outweighed by the factors  
18        in favor of dismissal discussed herein. Finally, a court's warning to a party that his  
19        failure to obey the court's order will result in dismissal satisfies the "consideration of  
20        alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;  
21        *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file an updated  
22        address within thirty days expressly stated: "IT IS FURTHER ORDERED that, if Plaintiff  
23        fails to comply with this order, this Court shall dismiss this case without prejudice." (ECF  
24        No. 38 at 2). Thus, Plaintiff had adequate warning that dismissal would result from his  
25        noncompliance with the Court's order to file an updated address with the Court within  
26        thirty days.

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1 It is therefore ordered that this action is dismissed without prejudice based on  
2 Plaintiff's failure to file an updated address in compliance with this Court's September 1,  
3 2016, order.

4 It is further ordered that the outstanding motions (ECF No. 28, 34) are denied as  
5 moot.

6 It is further ordered that the Clerk of Court enter judgment accordingly.

7 DATED THIS 12<sup>th</sup> day of October 2016.



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9 MIRANDA M. DU  
10 UNITED STATES DISTRICT JUDGE  
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