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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

In Re:	
WILLIAM MARTIN TEZAK, Aka BILL TEZAK,	Debtor.
WILLIAM MARTIN TEZAK,	Appellant,
v.	
KEVIN E. MONSON,	Appellee.

Case No. 3:16-cv-00247-MMD

BK Case No. 16-50124-gwz
Chapter 13

ORDER OF DISMISSAL

On April 6, 2017, the Court issued an Order to Show Cause, directing Appellant to show cause as to why this appeal should not be dismissed for Appellant’s failure to file his opening brief despite having been given two extensions of time. (ECF No. 15.) Appellant had until April 20, 2017, to respond to the Order to Show Cause. (*Id.*) To date, Appellant has failed to respond.

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) (dismissal for noncompliance

1 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
2 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
3 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
4 pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
5 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
6 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
7 failure to comply with local rules).

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


15 In the instant case, the Court finds that the first two factors, the public's interest in
16 expeditiously resolving this litigation and the Court's interest in managing the docket,
17 weigh in favor of dismissal. The third factor, risk of prejudice to Appellee, also weighs in
18 favor of dismissal, since a presumption of injury arises from the occurrence of
19 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
20 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor — public policy
21 favoring disposition of cases on their merits — is greatly outweighed by the factors in
22 favor of dismissal discussed herein. Finally, a court's warning to a party that his failure to
23 obey the court's order will result in dismissal satisfies the "consideration of alternatives"
24 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
25 at 1424. The Court's Order to Show Cause directs Appellant to show cause why this
26 appeal should not be dismissed. Appellant therefore has adequate warning that failure to
27 respond will result in dismissal of his appeal.

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It is therefore ordered that this appeal is dismissed. The Clerk is directed to close this case.

DATED THIS 25th day of April 2017.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE