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28UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

JAMIE ROSASCHI,

Case No. 3:16-cv-00723-MMD-WGC

Plaintiff,

ORDER

v.

ADAM ENDEL, *et al.*,

Defendants.

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On December 18, 2017, the Court issued an order dismissing the complaint with leave to amend and directed Plaintiff to file an amended complaint within thirty days. (ECF No. 5 at 10.) The thirty-day period has now expired, and Plaintiff has not filed an amended complaint or otherwise responded to the Court's order. 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 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (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)

1 (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
2 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local
3 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 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
10 *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. See
16 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
17 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
18 of 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 F.2d
21 at 1424. The Court's order requiring Plaintiff to file an amended complaint within thirty
22 days informed Plaintiff that if he did not file an amended complaint curing the deficiencies
23 in the complaint, then the action would be dismissed. (ECF No. 5 at 10). Thus, Plaintiff
24 had adequate warning that dismissal would result from his noncompliance with the
25 Court's order to file an amended complaint within thirty days.

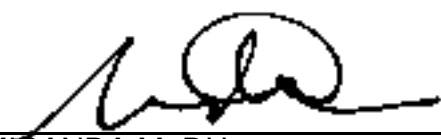
26 It is therefore ordered that this action is dismissed without prejudice based on
27 Plaintiff's failure to file an amended complaint in compliance with this Court's December
28 18, 2017, order.

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It is further ordered that the motion to proceed *in forma pauperis* (ECF No. 1) is denied as moot.

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

DATED THIS 1st day of February 2018.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE