

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 VICTOR TAGLE,

Case No. 3:17-cv-00372-RCJ-WGC

4 Plaintiff,

ORDER

5 v.

6 STATE OF NEVADA,

7 Defendant.

8  
9 This action is a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by  
10 a state prisoner. On November 6, 2018, this Court issued an order denying Plaintiff's  
11 application to proceed in forma pauperis because Plaintiff had "three strikes" pursuant to  
12 28 U.S.C. § 1915(g). (ECF No. 3). The Court informed Plaintiff that if he did not pay the  
13 \$400.00 filing fee in full within 30 days of the date of that order, the Court would dismiss  
14 the action without prejudice. (Id. at 2). The 30-day period has now expired and Plaintiff  
15 has not paid the full filing fee of \$400.00.

16 District courts have the inherent power to control their dockets and "[i]n the  
17 exercise of that power, they may impose sanctions including, where appropriate . . .  
18 dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
19 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure  
20 to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
21 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance  
22 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal  
23 for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856  
24 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring  
25 pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833  
26 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*  
27 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and  
28 failure to comply with local rules).

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

8 In the instant case, the Court finds that the first two factors, the public's interest in  
9 expeditiously resolving this litigation and the Court's interest in managing the docket,  
10 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
11 in favor of dismissal, since a presumption of injury arises from the occurrence of  
12 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See  
13 Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy  
14 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor  
15 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
16 the court's order will result in dismissal satisfies the "consideration of alternatives"  
17 requirement. Ferdik, 963 F.2d at 1262; Malone, 833 F.2d at 132-33; Henderson, 779  
18 F.2d at 1424. The Court's order requiring Plaintiff to pay the full filing fee within 30 days  
19 expressly stated: "It is further ordered that this action will be dismissed without prejudice  
20 unless Plaintiff pays the \$400.00 filing fee in full within thirty (30) days from the date of  
21 this order." (ECF No. 3 at 2). Thus, Plaintiff had adequate warning that dismissal would  
22 result from his noncompliance with the Court's order to pay the full filing fee within 30  
23 days.

24 It is therefore ordered that this action is dismissed without prejudice based on  
25 Plaintiff's failure to pay the \$400.00 filing fee in compliance with this Court's November 6,  
26 2018, order.

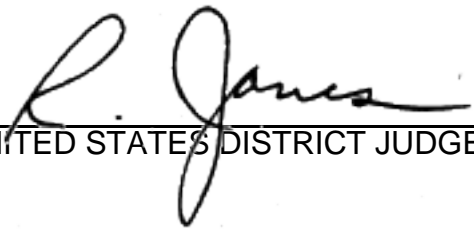
27 ///

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

Dated this 14<sup>th</sup> day of January, 2019.

  
UNITED STATES DISTRICT JUDGE