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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

EDWARD JOSE,

Plaintiff,

v.

TIMOTHY FILSON, et al.,

Defendants.

Case No. 3:18-cv-00178-MMD-VPC

ORDER

15 This action is a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a
16 state prisoner. (ECF Nos. 1, 1-1.) On June 12, 2018, this Court issued an order directing
17 Plaintiff Edward Jose to file a fully complete application to proceed in forma pauperis or
18 pay the full filing fee of \$400.00 within thirty (30) days from the date of that order. (ECF
19 No. 6 at 2.) The thirty-day period has now expired and Plaintiff has not filed an application
20 to proceed in forma pauperis, paid the full filing fee, or otherwise responded to the Court's
21 order.

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

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

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

14 In the instant case, the Court finds that the first two factors weigh in favor of
15 dismissal. The third factor—risk of prejudice to Defendants—also weighs in favor of
16 dismissal. A presumption of injury arises from the occurrence of unreasonable delay in
17 filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air West*,
18 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring disposition of
19 cases on their merits—is greatly outweighed by the factors in favor of dismissal discussed
20 herein. Finally, a court's warning to a party that his failure to obey the court's order will
21 result in dismissal satisfies the "consideration of alternatives" requirement. *Ferdik*, 963
22 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The Court's
23 order requiring Plaintiff to file an application to proceed in forma pauperis or pay the full
24 filing fee within thirty (30) days expressly stated: "IT IS FURTHER ORDERED that if
25 Plaintiff does not timely comply with this order, dismissal of this action may result." (ECF
26 No. 6 at 2.) Thus, Plaintiff had adequate warning that dismissal would result from his
27 noncompliance with the Court's order.


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It is therefore ordered that this action is dismissed without prejudice based on Plaintiff's failure to file an application to proceed in forma pauperis or pay the full filing fee in compliance with this Court's June 12, 2018 order.

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

DATED THIS 23rd day of July 2018.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE