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14UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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LEMUELU PATA SAUNI,

Plaintiff,

v.

STATE OF NEVADA et al.,

Defendants.

Case No. 3:18-cv-00250-MMD-WGC

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. On July 19, 2018, this Court issued an order granting Plaintiff one final opportunity to file the documents necessary to file a fully complete application to proceed *in forma pauperis*. (ECF No. 9.) The Court ordered Plaintiff to file an inmate account statement or pay the full filing fee of \$400.00 within thirty days from the date of that order. (*Id.* at 2). The thirty-day period has now expired, and Plaintiff has not filed an inmate account statement, paid the full filing fee, 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) (dismissing case for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992)

1 (dismissing case for failure to comply with an order requiring amendment of complaint);  
2 *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with  
3 local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S.*  
4 *Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissing case for failure to comply  
5 with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissing  
6 case for lack of prosecution and failure to comply with local 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 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
13 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

14 Here, the Court finds that the first two factors, the public's interest in expeditiously  
15 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
16 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
17 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
18 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*  
19 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
20 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
21 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey  
22 the court's order will result in dismissal satisfies the "consideration of alternatives"  
23 requirement. See *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779  
24 F.2d at 1424. The Court's order requiring Plaintiff to file an inmate account statement or  
25 pay the full filing fee within thirty days expressly stated: "IT IS FURTHER ORDERED that,  
26 if Plaintiff fails to timely file an inmate account statement, the Court will dismiss the case,  
27 without prejudice, for Plaintiff to file a new case when he is able to acquire the necessary  
28 documents to file a complete application to proceed *in forma pauperis*." (ECF No. 9 at 2.)

1 Thus, Plaintiff had adequate warning that dismissal would result from his noncompliance  
2 with the Court's order to file an inmate account statement or pay the full filing fee within  
3 thirty days.

4 It is therefore ordered that this action is dismissed without prejudice based on  
5 Plaintiff's failure to file an inmate account statement or pay the full filing fee in compliance  
6 with this Court's July 19, 2018, order.

7 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 8)  
8 is denied as moot.

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

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11 DATED THIS 27<sup>th</sup> day of August 2018.



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MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE

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