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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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LUIS SANTIAGO,

Case No. 3:20-cv-00584-RFB-WGC

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Plaintiff,

**ORDER**

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v.

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SAMSEL, *et al.*,

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Defendants.

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13 On October 19, 2020, this Court issued an order directing Plaintiff to file a fully  
14 complete application to proceed *in forma pauperis* or pay the full filing fee of \$400 on or  
15 before December 18, 2020. (ECF No. 3 at 2). The December 18, 2020 deadline has now  
16 expired and Plaintiff has not filed an application to proceed *in forma pauperis*, paid the  
17 full \$400 filing fee, or otherwise responded to the Court's order.

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

1 dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421,  
 2 1424 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with  
 3 local 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 See Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at  
 10 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

11 Here, the Court finds that the first two factors, the public's interest in expeditiously  
 12 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
 13 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of  
 14 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
 15 in filing a pleading ordered by the court or prosecuting an action. See Anderson v. Air  
 16 West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring  
 17 disposition of cases on their merits—is greatly outweighed by the factors in favor of  
 18 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  
 21 F.2d at 1424.

22 The Court's order requiring Plaintiff to file an application to proceed *in forma*  
 23 *pauperis* or pay the full filing fee on or before December 18, 2020, expressly stated: “IT  
 24 IS FURTHER ORDERED that if Plaintiff does not file a fully complete application to  
 25 proceed *in forma pauperis* with all three documents or pay the full \$400 filing fee for a  
 26 civil action on or before December 18, 2020, the Court will dismiss this action without  
 27 prejudice for Plaintiff to refile the case with the Court, under a new case number, when  
 28 Plaintiff has all three documents needed to file a complete application to proceed *in forma*

1 *pauperis* or pays the full \$400 filing fee." (ECF No. 3 at 3). Thus, Plaintiff had adequate  
2 warning that dismissal would result from his noncompliance with the Court's order to file  
3 an application to proceed *in forma pauperis* or pay the full filing fee on or before December  
4 18, 2020.

5 IT IS THEREFORE ORDERED that this action is dismissed without prejudice  
6 based on Plaintiff's failure to file an application to proceed *in forma pauperis* or pay the  
7 full \$400 filing fee in compliance with this Court's order dated October 19, 2020.

8 IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment  
9 accordingly and close this case. No additional documents will be filed in this closed case.

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DATED: January 7, 2021.

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RICHARD F. BOURWARE, II  
UNITED STATES DISTRICT JUDGE