

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JUAN CHAVEZ,

v.

D. DRUMMONDS, *et al.*,

**Plaintiff,**

Case No. 3:21-cv-00468-MMD-CSD

## ORDER

## Defendants.

12 Pro se Plaintiff Juan Chavez, who is incarcerated at Ely State Prison in the custody  
13 of the Nevada Department of Corrections, sued prison employees and officials, bringing  
14 civil-rights claims under 42 U.S.C. § 1983 to redress constitutional violations that he  
15 claims he suffered during his incarceration. (ECF No. 21.) The parties represented to the  
16 Court that they settled this case back in 2023. (ECF Nos. 43, 44, 54.) But when they had  
17 failed to file dismissal documents by January 2025, the Court ordered them to file  
18 dismissal documents or a joint status report within 15 days. (ECF No. 54.) Defense  
19 counsel filed a status report, but Plaintiff's counsel never did, so the Court gave Plaintiff  
20 another 15 days to file a status report, warning him that it would dismiss this case if he  
21 failed to timely comply. (ECF No. 58.) Plaintiff did not timely comply. Thus, and as further  
22 explained below, the Court will dismiss this case without prejudice.

23       District courts have the inherent power to control their dockets and “[i]n the  
24 exercise of that power, they may impose sanctions including, where appropriate . . .  
25 dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831  
26 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court  
27 order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.  
28 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to

1 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th  
2 Cir. 1987) (affirming dismissal for failure to comply with court order). In determining  
3 whether to dismiss an action on one of these grounds, the Court must consider: (1) the  
4 public's interest in expeditious resolution of litigation; (2) the Court's need to manage its  
5 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition  
6 of cases on their merits; and (5) the availability of less drastic alternatives. See *In re  
7 Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting  
8 *Malone*, 833 F.2d at 130).

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

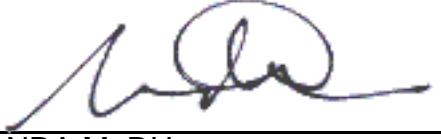
16 The fifth factor requires the Court to consider whether less drastic alternatives can  
17 be used to correct the party's failure that brought about the Court's need to consider  
18 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining  
19 that considering less drastic alternatives *before* the party has disobeyed a court order  
20 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th  
21 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that  
22 “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the court’s  
23 order as satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled  
24 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).  
25 Courts “need not exhaust every sanction short of dismissal before finally dismissing a  
26 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779  
27 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and  
28 unless Plaintiff complies with the Court’s orders and either files dismissal documents or

1 something explaining why nothing has really happened in this case since 2023, the only  
2 alternative is to enter a third order setting another deadline. But the reality of repeating  
3 an ignored order is that it often only delays the inevitable and squanders the Court's finite  
4 resources. The circumstances here do not indicate that this case will be an exception:  
5 there is no hint that Plaintiff needs additional time or evidence that he did not receive the  
6 Court's two orders described above. Setting another deadline is not a meaningful  
7 alternative given these circumstances. So, the fifth factor favors dismissal.

8 Having thoroughly considered these dismissal factors, the Court finds that they  
9 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without  
10 prejudice—in its entirety—based on Plaintiff's failure to comply with the Court's orders of  
11 January 24, 2025, and February 10, 2025.

12 The Clerk of Court is directed to enter judgment accordingly and close this case.  
13 No other documents may be filed in this now-closed case. If Plaintiff wishes to pursue his  
14 claims, he must file a complaint in a new case.

15 DATED THIS 5<sup>th</sup> Day of March 2025.

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18 MIRANDA M. DU  
19 UNITED STATES DISTRICT JUDGE  
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