

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

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4 TERRANCE E. WILLIAMS,

Case No. 3:22-cv-00048-RCJ-CLB

5 Plaintiff,

ORDER DISMISSING AND CLOSING
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N.N.C.C.

Defendant.

Plaintiff Terrance Williams brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 1-1). On January 28, 2022, this Court ordered Williams to file a complaint and either a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before March 29, 2022. (ECF No. 3). The Court warned Williams that the action could be dismissed if he failed to file a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action by that deadline. (*Id.* at 3). That deadline expired and Williams did not file a complaint and either a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee. Nor did Williams otherwise respond to the Court's order.

I. DISCUSSION

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 based on a party’s failure to obey a court order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to dismiss an action on one of these grounds, the Court must consider: (1) the public’s

1 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
 2 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
 3 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
 4 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
 5 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

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

13 The fifth factor requires the Court to consider whether less drastic alternatives can
 14 be used to correct the party's failure that brought about the Court's need to consider
 15 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
 16 that considering less drastic alternatives *before* the party has disobeyed a court order
 17 does not satisfy this factor); *accord Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
 18 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
 19 “implicitly accepted pursuit of last drastic alternatives prior to disobedience of the court’s
 20 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
 21 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
 22 Courts “need not exhaust every sanction short of dismissal before finally dismissing a
 23 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
 24 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
 25 unless Williams files a complaint and either a fully complete application to proceed *in*
 26 *forma pauperis* or pays the \$402 filing fee for a civil action, the only alternative is to enter
 27 a second order setting another deadline. But the reality of repeating an ignored order is
 28 that it often only delays the inevitable and squanders the Court's finite resources. The

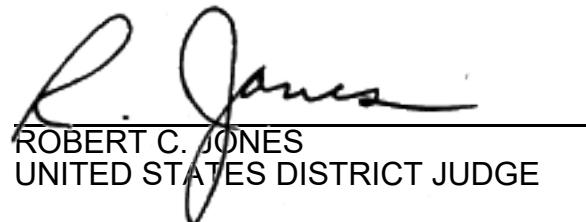
1 circumstances here do not indicate that this case will be an exception: there is no hint
2 that Williams needs additional time or evidence that he did not receive the Court's order.
3 Setting another deadline is not a meaningful alternative given these circumstances. So
4 the fifth factor favors dismissal.

5 **II. CONCLUSION**

6 Having thoroughly considered these dismissal factors, the Court finds that they
7 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without
8 prejudice based on Williams's failure to file a fully complete application to proceed *in*
9 *forma pauperis* or pay the full \$402 filing fee in compliance with this Court's January 28,
10 2022, order. The Clerk of Court is directed to enter judgment accordingly and close this
11 case. No other documents may be filed in this now-closed case. If Williams wishes to
12 pursue his claims, he must file a complaint in a new case.

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14 DATED THIS 9th day of May 2022.

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16 ROBERT C. JONES
17 UNITED STATES DISTRICT JUDGE
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