

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

SABRINA DUMAS,

Plaintiff,

v.

T. GARRETT, *et al.*,

Defendants.

Case No. 3:23-cv-00589-MMD-CSD

ORDER

Plaintiff Sabrina Dumas brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that she claims to have suffered while incarcerated at Lovelock Correctional Center. (ECF No. 5.) On August 5, 2024, this Court ordered Dumas to file an amended complaint by September 4, 2024. (ECF No. 4.) The Court warned Dumas that the action could be dismissed if she failed to do so by that deadline. (*Id.* at 10.) That deadline expired and Dumas did not file an amended complaint, move for an extension, or otherwise respond.

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 a 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) (affirming 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 interest in expeditious resolution of litigation; (2) the Court’s

1 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
2 favoring disposition of cases on their merits; and (5) the availability of less drastic  
3 alternatives. See *In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th  
4 Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

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

12 The fifth factor requires the Court to consider whether less drastic alternatives can  
13 be used to correct the party's failure that brought about the Court's need to consider  
14 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining  
15 that considering less drastic alternatives *before* the party has disobeyed a court order  
16 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th  
17 Cir. 2002). Courts "need not exhaust every sanction short of dismissal before finally  
18 dismissing a case, but must explore possible and meaningful alternatives." *Henderson v.*  
19 *Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically  
20 proceed until and unless Dumas files an amended complaint, the only alternative is to  
21 enter a second order setting another deadline. But the reality of repeating an ignored  
22 order is that it often only delays the inevitable and squanders the Court's finite resources.  
23 Because the circumstances here do not indicate that this case will be an exception, setting  
24 another deadline is not a meaningful alternative. So the fifth factor favors dismissal.

25 Having thoroughly considered these dismissal factors, the Court finds that they  
26 weigh in favor of dismissal. It is therefore ordered that this action is dismissed without  
27 prejudice based on Dumas's failure to file an amended complaint in compliance with this  
28 Court's August 5, 2024 order and for failure to state a claim. The Clerk of Court is directed

1 to enter judgment accordingly and close this case. No other documents may be filed in  
2 this now-closed case. If Dumas wishes to pursue her claims, she must file a complaint in  
3 a new case.

4 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)  
5 is granted. This status does not relieve the plaintiff of her obligation to pay the full \$350  
6 filing fee under the statute—it just means that she may do so in installments. The full \$350  
7 filing fee remains due and owing even though this case is being dismissed.

8 It is further ordered that the Nevada Department of Corrections must pay to the  
9 Clerk of the United States District Court, District of Nevada, 20% of the preceding month's  
10 deposits to the account of Sabrina S. Dumas, #56427 (in months that the account  
11 exceeds \$10) until the full \$350 filing fee has been paid for. The Clerk is directed to send  
12 a copy of this order to (1) the Finance Division of the Clerk's Office and (2) the attention  
13 of Chief of Inmate Services for the Nevada Department of Corrections at  
14 formapauperis@doc.nv.gov.

15 DATED THIS 25<sup>th</sup> Day of September 2024.

16  
17 

18 

---

MIRANDA M. DU  
19 CHIEF UNITED STATES DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28