

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
8

9
10 ANGEL EVARISTO RAMIREZ,

11 Plaintiff,

12 v.

13 SPOKANE COUNTY JAIL and
14 SPOKANE COUNTY DISTRICT
15 COURT,

16 Defendants.
17

2:16-CV-00404-SAB

**ORDER DISMISSING
COMPLAINT WITHOUT
PREJUDICE**

18 By Order filed January 17, 2017, the Court advised Plaintiff, a pro se post-
19 conviction prisoner at the Kootenai County Jail in Idaho, of the deficiencies of his
20 complaint and directed him to amend or voluntarily dismiss within sixty (60) days.
21 Although the Court was concerned about the discriminatory tone of Plaintiff's
22 arguments, he had failed to properly identify Defendants or to state what they did
23 which violated his constitutionally protected rights. ECF No. 7.

24 The Court cautioned that failure to amend as directed would result in
25 dismissal of the complaint. Despite this admonition, Plaintiff has not amended the
26 complaint and he has filed nothing further in this action.

27 //

28 //

ORDER DISMISSING COMPLAINT WITHOUT PREJUDICE -- 1

1 **DISMISSAL FOR FAILURE TO OBEY A COURT ORDER**

2 “Pursuant to Federal Rule of Civil Procedure 41(b), the district court may
3 dismiss an action for failure to comply with any order of the court.” *Ferdik v.*
4 *Bonzelet*, 963 F.2d 1258, 1260 (9th Cir. 1992). The Court should consider five
5 factors when deciding whether to dismiss a case for failure to obey a court order:
6 (1) The public’s interest in expeditious resolution of litigation; (2) the court’s need
7 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public
8 policy favoring disposition of cases on their merits; and (5) the availability of less
9 drastic alternatives. *Id.* at 1260-61 (citations omitted).

10 The first two factors weigh in favor of dismissal. The need to manage the
11 docket and the public’s interests are served by a quick resolution of civil rights
12 litigation. The third factor also favors dismissal. Defendants will not be prejudiced
13 if the claims are dismissed because the defendants have not yet been served. Only
14 the fourth factor arguably weighs against dismissal. However, Plaintiff has simply
15 not yet presented a sufficient case. As for the fifth factor, the only less drastic
16 alternative would be to allow Plaintiff yet more time to amend his complaint.
17 Plaintiff, however, has already had two months in which to file an amended
18 complaint; and failed to do so. Allowing a further extension would frustrate the
19 purpose of the first two factors; therefore, the fifth factor favors dismissal.

20 On balance, the four factors that favor dismissal outweigh the one that does
21 not. *Ferdik*, 963 F.2d at 1263 (citing *Malone v. U.S. Postal Serv.*, 833 F.2d 128,
22 133 n.2 (9th Cir. 1987) (four factors heavily supporting dismissal outweigh one
23 against dismissal), cert. denied, 488 U.S. 819 (1988)).

24 //
25 //
26 //
27 //
28 //

1 Accordingly, **IT IS ORDERED** that:

2 1. Plaintiff's Complaint, ECF No. 6, is **DISMISSED WITHOUT**
3 **PREJUDICE.**

4 **IT IS SO ORDERED.** The Clerk of Court is directed to **ENTER** this
5 Order, **ENTER** judgment of dismissal, **FORWARD** copies to Plaintiff at his last
6 known address, and **CLOSE** the file. The Court certifies pursuant to 28 U.S.C.
7 § 1915(a)(3) that any appeal of this Order would not be taken in good faith and
8 would lack any arguable basis in law or fact.

9 **DATED** this 3rd day of May, 2017.



13
14

A handwritten signature in blue ink that reads "Stanley A. Bastian".

15 Stanley A. Bastian
16 United States District Judge