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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

GIOVANNI SHEA KINSEY,

Plaintiff,

v.

FREDRICK REIDER, JEREMY
JANSKI, JIM RAYMOND,
STEPHEN SULTEMEIER,
EDUARDO MADRIGAL and RICK
LONG,

Defendant.

NO: 4:17-CV-5018-RMP

ORDER DISMISSING COMPLAINT
FOR FAILURE TO OBEY A COURT
ORDER

By Order filed April 13, 2017, the Court advised Plaintiff of the deficiencies of his complaint and directed him to amend or voluntarily dismiss within sixty (60) days. Plaintiff, a prisoner at the Benton County Jail, is proceeding *pro se* and *in forma pauperis*. He did not comply with the Court's Order and has filed nothing further in this action.

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ORDER DISMISSING COMPLAINT FOR FAILURE TO OBEY A COURT
ORDER -- 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), *cert. denied*, 506 U.S. 915 (1992).

5 The district court should consider five factors when deciding whether to dismiss a
6 case for failure to obey a court order:

- 7 (1) The public’s interest in expeditious resolution of litigation; (2) the
8 court’s need to manage its docket; (3) the risk of prejudice to the defendants;
9 (4) the public policy favoring disposition of cases on their merits; and (5) the
10 availability of less drastic alternatives.

11 *Ferdik*, 963 F.2d at 1260-61 (Citations omitted).

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

1 does not. *Ferdik*, 963 F.2d at 1263 (citing, *Malone v. United States Postal Serv.*,
2 833 F.2d 128, 133 n.2 (9th Cir. 1987) (four factors heavily supporting dismissal
3 outweigh one against dismissal), *cert. denied*, 488 U.S. 819 (1988)). Accordingly,

4 **IT IS ORDERED** that Plaintiff's complaint, ECF No. 7, is **DISMISSED**
5 **WITHOUT PREJUDICE.**

6 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
7 enter judgment, forward a copy to Plaintiff, and close the file. The Court certifies
8 any appeal of this dismissal would not be taken in good faith.

9 **DATED** July 24, 2017.

10
11 *s/ Rosanna Malouf Peterson*
12 ROSANNA MALOUF PETERSON
13 United States District Judge
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