

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

**Dejane Draper, et al. v. Las Vegas Metropolitan Police Department,
et al.**

Draper · No. 2:25-cv-01119-JAD-MDC · Decided December 22, 2025

OPINION

UNITED STATES DISTRICT COURT 2 DISTRICT OF NEVADA 3 4 5 Dejane Draper, et al.,
Case No. 2:25-cv-01119-JAD-MDC 6 ORDER ADOPTING REPORT AND Plaintiffs,
RECOMMENDATION AND 7 vs. DISMISSING CASE 8 Las Vegas Metropolitan Police
Department, et al., 9 Defendants. 10 11 On 12/3/25, the magistrate judge entered this report and
recommendation [ECF No. 5]: 12 The Court previously denied plaintiff Dejane Draper's
("Draper") IFP application and ordered 13 him to either pay the filing fee or file a new in forma
pauperis ("IFP") application.

ECF No. 4. The 14 Court also ordered Draper to obtain counsel for his children he listed as
plaintiffs if they were minor- 15 aged or clarify that his children are adults. Id. No plaintiff has
filed anything, paid the filing fee, or 16 obtained counsel, and the deadline to do so has passed. It
appears that plaintiffs have abandoned this 17 case. 18 The Court RECOMMENDS that this case
be dismissed.

19 I. LEGAL STANDARD 20 District courts have the inherent power to control their dockets and
"[i]n the exercise of that 21 power, they may impose sanctions including, where appropriate...
dismissal" of a case. Thompson v. 22 Hous. Auth. of City of Los Angeles, 782 F.2d 829, 831 (9th
Cir. 1986). A court may dismiss an action 23 based on a party's failure to obey a court order or
comply with local rules.

Malone v. U.S. Postal 24 Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to
comply with court order); Henderson 25 v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal
for lack of prosecution and failure to comply with local rules). 1 In determining whether to
dismiss an action on one of these grounds, the court must consider: (1) 2 the public's interest in
expeditious resolution of litigation; (2) the court's need to manage its docket; (3) 3 the risk of
prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; 4
and (5) the availability of less drastic alternatives.

In re Phenylpropanolamine Prod. Liab. Litig., 460 5 F.3d 1217, 1226 (9th Cir. 2006) (quoting
Malone v. U.S. Postal Serv., 833 F.2d 128, 130 (9th Cir. 6 1987)). 7 II. ANALYSIS 8 The first two
factors, the public's interest in expeditiously resolving this litigation and the court's 9 interest in
managing its docket, weigh in favor of dismissal of the plaintiff's case.

Plaintiff has chosen 10 not to comply with this Court's Order. The third factor, risk of prejudice to defendants, also weighs in 11 favor of dismissal because a presumption of injury arises from the occurrence of unreasonable delay in 12 prosecuting an action. See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

The fourth factor— 13 the public policy favoring disposition of cases on their merits—is greatly outweighed by the factors 14 favoring dismissal. 15 The fifth factor requires the Court to consider whether less drastic alternatives can be used to 16 correct the party's failure that brought about the Court's need to consider dismissal. *Yourish v. Cal. 17 Amplifier*, 191 F.3d 983, 992 (9th Cir.

1999) (explaining that considering less drastic alternatives before 18 the party has disobeyed a Court order does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 19 F.3d 639, 643 & n.4 (9th Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases 20 that “implicitly accepted pursuit of less drastic alternatives prior to disobedience of the Court's Order as 21 satisfying this element[,]” i.e., like the “initial granting of leave to amend coupled with the warning of 22 dismissal for failure to comply[,]” have been “eroded” by *Yourish*).

Courts “need not exhaust every 23 sanction short of dismissal before finally dismissing a case but must explore possible and meaningful 24 alternatives.” *Henderson*, 779 F.2d at 1424. 25 1 This Court cannot operate without collecting reasonable fees and litigation cannot progress 2 || without a plaintiff's compliance with Court orders.

The only alternative is to enter another order setting 3 || another deadline. Issuing another order, however, will only delay the inevitable and further squander the 4 || Court's finite resources. Setting another deadline is not a meaningful alternative given these 5 || circumstances.

The fifth factor favors dismissal. 6 After weighing these dismissal factors, the Court finds that they weigh in favor of dismissal. For 7 || the reasons discussed in this Order and the Court's earlier Order (ECF No. 4), plaintiffs' case should be 8 || dismissed. 9 IT IS RECOMMENDED THAT this case be DISMISSED. 10 Dated: December 3, 2025. 11 13 Hon. imiliago I. Cowvillier I Und States Magistrate Judge 14 ORDER 15 6 The deadline for any party to object to this recommendation was 12/17/2025, and no party filed anything or asked to extend the deadline to do so. “[N]o review is required of a magistrate 1g || Judge's report and recommendation unless objections are filed.” *United States v. Reyna-Tapia*, 328 19 || F.3d 1114, 1121 (9th Cir.

2003). Having reviewed the report and recommendation, I find good cause 20 || to adopt it, and I do. IT IS THEREFORE ORDERED that the Magistrate Judge's Report and 21 || Recommendation [ECF No. 5] is ADOPTED in its entirety, and THIS CASE IS DISMISSED for 22 || the reasons stated in the report and recommendation.

The Clerk of Court is directed to CLOSE * || THIS CASE. oot US. District Judge Fennifer. Dorsey 25 Dated: December 22, 2025

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