

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Marquise Louis Drumwright v. Jones, et al.

Drumwright v. Jones, No. 1:23-cv-00730-BAM (PC) (E.D. Cal. Dec. 2, 2025) · No. 1:23-cv-00730-BAM (PC) ·
Decided December 2, 2025

OPINION

Jones

PER CURIAM.

1 2 3 4

5 UNITED STATES DISTRICT COURT

6 EASTERN DISTRICT OF CALIFORNIA

7 8 MARQUISE LOUIS DRUMWRIGHT, Case No. 1:23-cv-00730-BAM (PC) 9 Plaintiff,
ORDER DIRECTING CLERK OF COURT TO
RANDOMLY ASSIGN DISTRICT JUDGE

10 v.

FINDINGS AND RECOMMENDATIONS

11 JONES, et al., REGARDING DISMISSAL OF ACTION FOR
FAILURE TO PROSECUTE AND FAILURE

12 Defendants. TO OBEY A COURT ORDER 13 (ECF No. 16)

14 FOURTEEN (14) DAY DEADLINE

15 16 I. Background 17 Plaintiff Marquise Louis Drumwright (“Plaintiff”) is a state prisoner
proceeding pro se 18 and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.
19 On October 3, 2025, the Court issued an order reassigning this case from Magistrate Judge 20
Gary S. Austin to the undersigned for all further proceedings. (ECF No. 15.) The order was 21
served on Plaintiff at his current address of record at Mule Creek State Prison. On October 20, 22
2025, the order was returned as “Undeliverable, Inactive, Released 4/20/2025.” 23 On October 21,
2025, the Court screened the complaint and granted Plaintiff leave to file a 24 first amended
complaint or to notify the Court of his willingness to proceed on cognizable claims 25 within
thirty days. (ECF No. 16.) Plaintiff was warned that failure to comply with the Court’s 26 order
would result in dismissal of this action, without prejudice, for failure to obey a court order 27 and
failure to prosecute. (Id. at 14.) The order was again served on Plaintiff at his current 28 address of
record. On November 7, 2025, the Court’s order was returned as “Undeliverable,
1 Inactive 4/28/2025.”

2 The deadline for Plaintiff to respond to the Court’s order has now expired, and Plaintiff 3 has not
filed a notice of change of address or otherwise communicated with the Court. 4 II. Failure to
Prosecute and Failure to Obey a Court Order 5 A. Legal Standard 6 Plaintiff is required to keep

the Court apprised of his current address at all times. Local

7 Rule 183(b) provides:

8 Address Changes. A party appearing in propria persona shall keep the Court and 9 opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, 10 and if such plaintiff fails to notify the Court and opposing parties within thirty

(30) days thereafter of a current address, the Court may dismiss the action without

11 prejudice for failure to prosecute. 12 Federal Rule of Civil Procedure 41(b) also provides for dismissal of an action for failure to 13 prosecute.¹ 14 Local Rule 110 provides that “[f]ailure . . . of a party to comply with these Rules or with 15 any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . 16 within the inherent power of the Court.”

District courts have the inherent power to control their 17 dockets and “[i]n the exercise of that power they may impose sanctions including, where 18 appropriate, . . . dismissal.” *Thompson v. Hous. Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A 19 court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, 20 failure to obey a court order, or failure to comply with local rules. See, e.g., *Ghazali v. Moran*, 46 21 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 22 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring 23 amendment of complaint); *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130–33 (9th Cir. 1987) 24 (dismissal for failure to comply with court order). 25 In determining whether to dismiss an action, the Court must consider several factors: 26 (1) the public’s interest in expeditious resolution of litigation; (2) the Court’s need to manage its 27 1 Courts may dismiss actions sua sponte under Rule 41(b) based on the plaintiff’s failure to prosecute. *Hells Canyon* 28 *Pres. Council v. U. S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) (citation omitted). 1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of 2 cases on their merits; and (5) the availability of less drastic sanctions. *Henderson v. Duncan*, 779 3 F.2d 1421, 1423 (9th Cir. 1986); *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988). 4 B. Discussion 5 Here, Plaintiff’s address change was due no later than November 19, 2025, and Plaintiff’s 6 response to the Court’s October 21, 2025 order is also overdue. Plaintiff has failed to comply 7 with the Court’s order or otherwise communicate with the Court. The Court cannot effectively 8 manage its docket if Plaintiff ceases litigating his case. Thus, the Court finds that both the first 9 and second factors weigh in favor of dismissal. 10 The third factor, risk of prejudice to defendant, also weighs in favor of dismissal, since a 11 presumption of injury arises from the occurrence of unreasonable delay in prosecuting an action. 12 *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor usually weighs against 13 dismissal because public policy favors disposition on the merits. *Pagtalunan v. Galaza*, 291 F.3d 14 639, 643 (9th Cir. 2002). However, “this factor lends little support to a party whose 15 responsibility it is to move a case toward disposition on the merits but whose conduct impedes 16 progress in that direction,” which is the case here. *In re Phenylpropanolamine (PPA) Products* 17

Liability Litigation, 460 F.3d 1217, 1228 (9th Cir. 2006) (citation omitted). 18 Finally, the Court's warning to a party that failure to obey the court's order will result in 19 dismissal satisfies the "considerations of the alternatives" requirement. *Ferdik*, 963 F.2d at 1262; 20 *Malone*, 833 at 132–33; *Henderson*, 779 F.2d at 1424. The Court's October 21, 2025 order 21 expressly warned Plaintiff that his failure to comply with the Court's order would result in 22 dismissal of this action, without prejudice, for failure to obey a court order and for failure to 23 prosecute. (ECF No. 16.) Thus, Plaintiff had adequate warning that dismissal could result from 24 his noncompliance. 25 Additionally, at this stage in the proceedings there is little available to the Court that 26 would constitute a satisfactory lesser sanction while protecting the Court from further 27 unnecessary expenditure of its scarce resources. Plaintiff is proceeding in forma pauperis in this 28 action, making monetary sanctions of little use, and the preclusion of evidence or witnesses is 1 likely to have no effect given that Plaintiff has ceased litigating his case and updating his address. 2 More importantly, given the Court's apparent inability to communicate with Plaintiff, there are no 3 other reasonable alternatives available to address Plaintiff's failure to prosecute this action and his 4 failure to apprise the Court of his current address. In *re PPA*, 460 F.3d at 1228–29; *Carey*, 856 F.2d at 1441. 6 III. Order and Recommendation 7 Accordingly, the Court HEREBY ORDERS the Clerk of the Court to randomly assign a 8 District Judge to this action. 9 Furthermore, the Court finds that dismissal is the appropriate sanction and HEREBY 10 RECOMMENDS that this action be dismissed, without prejudice, for failure to obey a Court 11 order and failure to prosecute. 12 These Findings and Recommendation will be submitted to the United States District Judge 13 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within fourteen 14 (14) days after being served with these Findings and Recommendation, Plaintiff may file written 15 objections with the Court. The document should be captioned "Objections to Magistrate Judge's 16 Findings and Recommendation." Objections, if any, shall not exceed fifteen (15) pages or 17 include exhibits. Exhibits may be referenced by document and page number if already in 18 the record before the Court. Any pages filed in excess of the 15-page limit may not be 19 considered. The parties are advised that failure to file objections within the specified time may 20 result in the waiver of the "right to challenge the magistrate's factual findings" on 21 appeal. *Wilkerson v. Wheeler*, 772 F.3d 834, 838–39 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 22 923 F.2d 1391, 1394 (9th Cir. 1991)). 23 IT IS SO ORDERED. 24 25 Dated: December 2, 2025 /s/ Barbara A. McAuliffe _

UNITED STATES MAGISTRATE JUDGE

26 27 28