

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

Fernando Coria, Jr. v. M. Garcia, et al.

Coria v. Garcia · No. No. 1:20-cv-01652-KES-GSA (PC) · Decided June 16, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 FERNANDO CORIA, JR., No. 1:20-cv-01652-KES-GSA (PC) 12 Plaintiff,
ORDER ON FINDINGS AND RECOMMENDATIONS AND DISMISSING 13 v. ACTION 14
M. GARCIA, et al., (Doc. 62) 15 Defendants. 16 17 Plaintiff, proceeding pro se and in forma
pauperis, filed this civil rights action seeking 18 relief under 42 U.S.C. § 1983.

The matter was referred to a United States magistrate judge 19 pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 20 On March 4, 2025, defendants filed a status report requesting that the
Court lift the stay in 21 this case, set a deadline for plaintiff to file a notice of change of address
because plaintiff had 22 been released from the California Department of Corrections and
Rehabilitation's custody on 23 February 18, 2025, and set a deadline for defendants to file a
responsive pleading.

Doc. 59. On 24 March 10, 2025, the magistrate judge lifted the stay and directed plaintiff to file a
notice of 25 current address within thirty days. Doc. 60. The March 10, 2025 order was returned
as 26 undeliverable.¹ Defendants subsequently filed a motion to dismiss. Doc. 61. 27 1 Pursuant
to Local Rule 182(f), a pro se party is under a continuing duty to notify the Clerk of the 28 Court
of any change of address.

Absent such notice, service of documents at the prior address is 1 On May 12, 2025, the
magistrate judge issued findings and recommendations, 2 recommending that this action be
dismissed for plaintiff's failure to obey a Court order and his 3 failure to keep the Court informed
of his current address. Doc. 62.

The findings and 4 recommendations were served on plaintiff at his last known address and
contained notice that any 5 objections were to be filed within fourteen days. Id. The findings and
recommendations were 6 returned as undeliverable. Plaintiff has not provided the Court with his
current address or filed 7 objections, and the time to do so has passed. 8 In accordance with 28
U.S.C. § 636(b)(1), the Court has conducted a de novo review of 9 the case.

Having carefully reviewed the matter, the Court concludes that the Malone factors— 10 that is,
the public's interest in expeditious resolution of litigation; the Court's need to manage its 11
docket; the risk of prejudice to the defendants; the public policy favoring disposition of cases on

12 their merits; and the availability of less drastic sanctions—weigh in favor of dismissing the case 13 without prejudice.

Malone v. United States Postal Service, 833 F.2d 128, 130 (9th Cir. 1987). 14 Plaintiff was previously informed that the Court may dismiss the action for failure to prosecute if 15 he failed to comply with the obligation to keep the Court informed of his correct mailing address. 16 Doc. 4 at 5. 17 The first two factors weigh in favor of dismissal. See Yourish v. Cal. Amplifier, 191 F.3d 18 983, 990 (9th Cir.

1999) (“The public’s interest in expeditious resolution of litigation always 19 favors dismissal.”). The public’s interest in expeditious resolution of litigation and the Court’s 20 need to manage its docket weigh in favor of dismissal because the Court cannot effectively 21 manage its docket, nor can the litigation be expeditiously resolved, if plaintiff fails to keep the 22 Court apprised of his address.

The stay has been lifted but the litigation cannot currently proceed 23 because plaintiff has not provided his current address to defendants or the Court. 24 To determine whether the defendants suffer prejudice, the Court must “examine whether 25 the plaintiff’s actions impair the defendant’s ability to go to trial or threaten to interfere with the 26 rightful decision of the case.” Malone, 833 F.2d at 131 (citing Rubin v. Belo Broadcasting Corp., 27 28 deemed to be fully effective.

Local Rule 182(f). 1 | 769 F.2d 611, 618 (9th Cir. 1985)). Significantly, a presumption of prejudice arises through a 2 | delay in the prosecution of an action. See Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 3 | 1976). Toward this end, the third factor also supports dismissal of the action. 4 While the fourth consideration, that public policy favors disposition of cases on their 5 | merits, generally weighs against dismissal, here it lends little support “to a party whose 6 | responsibility it is to move a case toward disposition on the merits but whose conduct impedes 7 | progress in that direction.” In re Phenylpropanolamine (PPA) Products Liab.

Litig., 460 F.3d 8 | 1217, 1228 (9th Cir. 2006) (citations omitted). As to the fifth factor, no lesser sanction is feasible 9 | given the Court’s inability to communicate with plaintiff. See, e.g., Gaston v. Marean, 2020 WL 10 | 4059200, at *3 (E.D. Cal. July 20, 2020) (“given the Court’s apparent inability to communicate 11 | with Plaintiff, there are no other reasonable alternatives available to address Plaintiffs failure to 12 || prosecute this action and his failure to apprise the Court of his current address”).

13 Accordingly: 14 1. The findings and recommendations issued May 12, 2025, Doc. 62, are adopted to the 15 extent set forth above; 16 2. This matter is DISMISSED without prejudice for plaintiff’s failure to prosecute and 17 failure to obey a Court order; 18 3. Defendants’ motion to dismiss, Doc. 61, is terminated as moot, and 19 4.

The Clerk of Court is directed to CLOSE this case. 20 21 92 | IT IS SO ORDERED. _ 23 Dated: _
June 13, 2025 4h UNITED STATES DISTRICT JUDGE 25 26 27 28

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