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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO PERALTA QUEZADA,	1:11-cv-0929-LJO-MJS (PC)
Plaintiff,	FINDINGS AND RECOMMENDATION
v.	FOR DISMISSAL OF PLAINTIFF'S
SIX UNKNOWN NAMES AGENTS, et	(ECF No. 3)
al.,	THIRTY DAY DEADLINE
Defendants.	

Plaintiff Francisco Peralta Quezada ("Plaintiff") is a prisoner proceeding pro se in a civil rights action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971).

On July 1, 2011, the Court ordered Plaintiff's Complaint to be stricken from the record for its lack of a signature, and directed Plaintiff to file a signed complaint within thirty days from service of the Order. (ECF No. 3.) Plaintiff was informed that failure to comply with the Order would result in dismissal of the action. (Id.) This deadline has long since passed without a response from Plaintiff.

Local Rule 110 provides that "failure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of the Court." District courts have the inherent power to control their dockets and "in the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal of a case." Thompson v. Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order,

1 or failure to comply with local rules. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th
2 Cir. 1995) (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d
3 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring
4 amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
5 (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court
6 apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)
7 (dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421,
8 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local
9 rules).

10 In determining whether to dismiss an action for lack of prosecution, failure to obey
11 a Court order, or failure to comply with local rules, the Court must consider several
12 factors: (1) the public's interest in expeditious resolution of litigation; (2) the Court's need
13 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
14 favoring disposition of cases on their merits; and (5) the availability of less drastic
15 alternatives. Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-24; Malone, 833
16 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali, 46 F.3d at 53.

17 In the instant case, the Court finds that the public's interest in expeditiously
18 resolving this litigation and the Court's interest in managing the docket weigh in favor of
19 dismissal. The third factor, risk of prejudice to the defendant, also weighs in favor of
20 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
21 in prosecuting an action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The
22 fourth factor -- public policy favoring disposition of cases on their merits -- is greatly
23 outweighed by the factors in favor of dismissal discussed herein. Finally, a court's
24 warning to a party that his failure to obey the court's order will result in dismissal satisfies
25 the "consideration of alternatives" requirement. Ferdik v. Bonzelet, 963 F.2d at 1262;
26 Malone, 833 at 132-33; Henderson, 779 F.2d at 1424. The Court's Order expressly
27 stated: "The failure to comply with this Order will result in dismissal of this action." (Order,
28 ECF No. 3.) Thus, Plaintiff had adequate warning that dismissal would result from his

1 noncompliance with the Court's Order.

2 Accordingly, it is **RECOMMENDED** that in the event that Plaintiff does not file a
3 signed complaint within **thirty (30) days** of entry of this Order, this matter be **DISMISSED**
4 **by the District Judge.**

5 These findings and recommendations are submitted to the United States District
6 Judge assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1).
7 Within thirty days after being served with these findings and recommendations, any party
8 may file written objections with the court and serve a copy on all parties. Such a
9 document should be captioned "Objections to Magistrate Judge's Findings and
10 Recommendations." Any reply to the objections shall be served and filed within ten days
11 after service of the objections. The parties are advised that failure to file objections within
12 the specified time may waive the right to appeal the District Court's order. Martinez v.
13 Ylst, 951 F.2d 1153 (9th Cir. 1991).

14
15 IT IS SO ORDERED.

16 Dated: September 19, 2011

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE