

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

MIGUEL JOSEPH LANGE,) NO. 1:07 cv 01811 GSA (PC)
Plaintiff,) ORDER TO SHOW CAUSE WHY
v.) THIS ACTION SHOULD NOT BE
SGT. BEER, et al.,) DISMISSED FOR FAILURE TO
Defendants.) OBEY A COURT ORDER
) RESPONSE DUE IN THIRTY DAYS

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636 (c)(1).

On June 17, 2010, an order was entered, directing plaintiff to complete and submit to the Court forms for service of process. Plaintiff was cautioned that his failure to comply with the order could result in dismissal of this action. Plaintiff has not returned the forms to the Court, nor has Plaintiff filed any other response to the order of June 17, 2010.

Local Rule 110 provides that “failure of counsel or of a party to comply with these Local Rules or with any order of the Court may be grounds for the 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

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

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

17 Here, the Court finds that the public's interest in expeditiously resolving this litigation
18 and the court's interest in managing the docket weigh in favor of dismissal. The third factor, risk
19 of prejudice to defendants, also weighs in favor of dismissal, since a presumption of injury arises
20 from the occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West, 542
21 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on
22 their merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,
23 a court's warning to a party that his failure to obey the court's order will result in dismissal
24 satisfies the "consideration of alternatives" requirement. Ferdik v. Bonzelet, 963 F.2d at 1262;
25 Malone, 833 at 132-33; Henderson, 779 F.2d at 1424.

26 Accordingly, IT IS HEREBY ORDERED that Plaintiff shall show cause, within thirty
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1 days of the date of service of this order, why this action should not be dismissed for Plaintiff's
2 failure to obey a court order. Plaintiff's failure to respond will result in dismissal of this action
3 without prejudice pursuant to Local Rule 110.

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8 IT IS SO ORDERED.

9 Dated: August 3, 2010

/s/ Gary S. Austin
10 UNITED STATES MAGISTRATE JUDGE

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