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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JONNIE ANGEL ALCALA,

1:08-cv-01676-DLB HC

Petitioner,

v.

ORDER DISMISSING PETITION FOR WRIT OF HABEAS CORPUS FOR FAILURE TO COMPLY WITH A COURT ORDER

HECTOR RIOS, Warden, et.al.,

[Doc. 28]

Respondents.

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Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Pursuant to 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States Magistrate Judge.

On May 11, 2009, the Court dismissed the instant petition for writ of habeas corpus for failure lack of subject matter jurisdiction.

On May 25, 2011, the Ninth Circuit Court of Appeals remanded the case back to this Court to allow Petitioner to amend the petition.

On August 2, 2011, the Court granted Petitioner leave to file an amended petition within thirty days from the date of service. Petitioner has failed to comply with the Court’s order. Accordingly, dismissal of the petition is warranted.

Local Rule 110 provides that a “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

1 power to control their dockets and “in the exercise of that power, they may impose sanctions  
2 including, where appropriate . . . dismissal of a case.” Thompson v. Housing Auth., 782 F.2d  
3 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s  
4 failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
5 See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with  
6 local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to  
7 comply with an order requiring amendment of complaint); Malone v. U.S. Postal Service, 833  
8 F.2d 128, 130 (9th Cir. 1987)(dismissal for failure to comply with court order).

9 In determining whether to dismiss an action for lack of prosecution, the Court must  
10 consider several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the  
11 Court’s need to manage its docket; (3) the risk of prejudice to the Respondents; (4) the public  
12 policy favoring disposition of cases on their merits; and, (5) the availability of less drastic  
13 alternatives. Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986); Carey v. King, 856  
14 F.2d 1439 (9th Cir. 1988). The Court finds that the public’s interest in expeditiously resolving  
15 this litigation and the court’s interest in managing the docket weigh in favor of dismissal, as this  
16 case has been pending since November 3, 2008. The Court cannot hold this case in abeyance  
17 indefinitely awaiting compliance by Petitioner. The third factor, risk of prejudice to  
18 Respondents, also weighs in favor of dismissal, since a presumption of injury arises from the  
19 occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West, 542 F.2d 522,  
20 524 (9<sup>th</sup> Cir. 1976). The fourth factor -- public policy favoring disposition of cases on their  
21 merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,  
22 given Petitioner’s noncompliance with the Court’s order, no lesser sanction is feasible.

23 IT IS SO ORDERED.

24 **Dated: September 19, 2011**

**/s/ Dennis L. Beck**  
25 UNITED STATES MAGISTRATE JUDGE