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2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE EASTERN DISTRICT OF CALIFORNIA
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7 PATRICK KUNKEL,

8 Plaintiff,

1:09 CV 00686 YNP SMS (PC)

9 vs.

ORDER TO SHOW CAUSE

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12 N. DILL, et al.,

13 Defendants.
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15 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in a civil rights actin
16 pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to
17 28 U.S.C. § 636(c)(1).

18 On September 1, 2009, an order was entered, finding that the complaint stated a
19 cognizable claim against Defendants Pfeiffer, Ali and Dileo on Plaintiff's medical and dental
20 claims. The complaint failed to state a claim against the remaining Defendants. Plaintiff was
21 directed to notify the court whether he intends to proceed on the original complaint or file an
22 amended complaint. Plaintiff has failed to respond to the September 1, 2009, order.

23 Local Rule 11-110 provides that "failure of counsel or of a party to comply with these
24 Local Rules or with any order of the Court may be grounds for the imposition by the Court of any
25 and all sanctions . . . within the inherent power of the Court." District courts have the inherent
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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); Carey v. King, 856 F.2d 1439, 1440-
8 41 (9th Cir. 1988)(dismissal for failure to comply with local rule requiring pro se plaintiffs to
9 keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir.
10 1987)(dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421,
11 1424 (9th Cir. 1986)(dismissal for failure to lack of prosecution and failure to comply with local
12 rules).

13 In determining whether to dismiss an action for lack of prosecution, failure to obey a
14 court order, or failure to comply with local rules, the court must consider several factors: (1) the
15 public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket;
16 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
17 their merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;
18 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,
19 46 F.3d at 53.

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

4 Accordingly, Plaintiff is directed to show cause, within thirty days of the date of service
5 of this order, why this action should not be dismissed for failure to prosecute. Plaintiff's failure
6 to do so will result in dismissal of this action pursuant to Local Rule 11-110.

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8 IT IS SO ORDERED.

9 **Dated: October 8, 2009**

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE