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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA

8 LEROY DEWITT HUNTER,
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10 Plaintiff,

11 v.

12 ATTORNEY GENERAL, et al.,

13 Defendants.
14 _____/

CASE NO. 1:09-cv-1556-MJS (PC)

ORDER DISMISSING CASE FOR FAILURE
TO PROSECUTE

15 Plaintiff Leroy Dewitt Hunter ("Plaintiff") is a state prisoner proceeding pro se and
16 in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has
17 consented to the Magistrate Judge handling all matters in this action. (ECF No. 6.)

18 On May 28, 2010, the Court ordered that Plaintiff's Complaint be dismissed for
19 failure to state a claim. (ECF No. 12.) Plaintiff was given thirty days to file an amended
20 complaint and was warned that failure to do so would result in dismissal of this action.
21 (ECF No. 12.) When Plaintiff failed to meet this deadline, the Court ordered Plaintiff to
22 show cause as to why his case should not be dismissed. Plaintiff then moved the Court
23 to appoint an attorney to assist him. (ECF No. 14.) The Court denied Plaintiff's motion and
24 Plaintiff appealed. (ECF Nos. 15 & 17.) The Ninth Circuit dismissed Plaintiff's appeal for
25 lack of jurisdiction. (ECF No. 22.)

26 Though all this, Plaintiff did not file an amended complaint. On September 10,
27 2010, the Court ordered Plaintiff to file an amended complaint by October 1, 2010 or face
28 dismissal of this action. (ECF No. 23.) Plaintiff still has not filed an amended complaint.

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2 Local Rule 11-110 provides that "failure of counsel or of a party to comply with these
3 Local Rules or with any order of the Court may be grounds for the imposition by the Court
4 of any and all sanctions . . . within the inherent power of the Court." District courts have
5 the inherent power to control their dockets and "in the exercise of that power, they may
6 impose sanctions including, where appropriate . . . dismissal of a case." Thompson v.
7 Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with
8 prejudice, based on a party's failure to prosecute an action, failure to obey a court order,
9 or failure to comply with local rules. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th
10 Cir. 1995) (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258,
11 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment
12 of complaint).

13 Because Plaintiff has failed to file an amended complaint, there is no pleading on
14 file which sets forth any claims upon which relief may be granted under section 1983. The
15 Court cannot allow this case to languish on its docket without an operative pleading.
16 Plaintiff's repeated refusals to obey the Court's orders leave the Court no choice but to
17 dismiss this action.

18 Accordingly, the above captioned action is DISMISSED without prejudice for failure
19 to prosecute.

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21 IT IS SO ORDERED.

22 Dated: October 22, 2010

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE