

1 consider several factors: (1) the public's interest in expeditious resolution of litigation; (2) the
2 court's need to manage its docket; (3) the risk of prejudice to the respondents; (4) the public
3 policy favoring disposition of cases on their merits; and (5) the availability of less drastic
4 alternatives. Henderson v. Duncan, 779 F.2d 1421, 1423-24 (9th Cir. 1986); Carey v. King,
5 856 F.2d 1439, 1440-41 (9th Cir. 1988). The Court finds that the public's interest in
6 expeditiously resolving this litigation and the Court's interest in managing the docket weigh in
7 favor of dismissal as this case has been pending since January 11, 2011. The Court cannot
8 hold this case in abeyance indefinitely based on Petitioner's failure to respond to four separate
9 orders of the court. The third factor, risk of prejudice to respondents, also weighs in favor of
10 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in
11 prosecuting an action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
12 factor, public policy favoring disposition of cases on their merits, is outweighed by the factors
13 in favor of dismissal discussed herein. Finally, given Petitioner's failure to communicate with
14 the Court despite several orders requiring him to do so, no lesser sanction is feasible.

15 Petitioner has failed to prosecute the present matter by failing to follow a court order.
16 Therefore, the petition must be dismissed.

17 **ORDER**

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The Petition for Writ of Habeas Corpus is DISMISSED without prejudice; and
20 2. The Clerk of Court is DIRECTED to enter judgment.

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24 IT IS SO ORDERED.

25 Dated: August 30, 2011

1st. Michael J. Seng
26 UNITED STATES MAGISTRATE JUDGE