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6 **UNITED STATES DISTRICT COURT**

7 EASTERN DISTRICT OF CALIFORNIA  
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9 RENE ARROYO, ) 1:11-CV-01186 AWI DLB PC  
10 Plaintiff, ) FINDINGS AND RECOMMENDATION TO  
11 vs. ) DISMISS ACTION FOR FAILURE TO  
12 ) COMPLY WITH A COURT ORDER  
13 JAMES TILTON, et al., ) (TEN DAY DEADLINE)  
14 Defendants. )  
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16 Plaintiff Rene Arroyo (“Plaintiff”) is a former state prisoner proceeding pro se in this  
17 civil rights action pursuant to 42 U.S.C. § 1983.

18 On January 27, 2015, the Court issued an order directing Plaintiff to show cause why the  
19 action should not be dismissed for failure to prosecute within twenty-one (21) days of the date of  
20 service of the order. Over twenty-one days have passed and Plaintiff has not responded to the  
21 Court's order.

22 Local Rule 110 provides that “failure of counsel or of a party to comply with these Local  
23 Rules or with any order of the Court may be grounds for the imposition by the Court of any and  
24 all sanctions . . . within the inherent power of the Court.” “District courts have the inherent  
25 power to control their dockets and in the exercise of that power, they may impose sanctions  
26 including, where appropriate . . . dismissal of a case.” Thompson v. Housing Auth., 782 F.2d  
27 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's  
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1 failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.  
2 See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with  
3 local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to  
4 comply with an order requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-  
5 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to  
6 keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir.  
7 1987) (dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421,  
8 1424 (9th Cir. 1986) (dismissal for failure to lack of prosecution and failure to comply with local  
9 rules).  
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11 In determining whether to dismiss an action for lack of prosecution, failure to obey a  
12 court order, or failure to comply with local rules, the court must consider several factors: (1) the  
13 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;  
14 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on  
15 their merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;  
16 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,  
17 46 F.3d at 53.

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

4 **RECOMMENDATION**

5 Accordingly, the Court HEREBY RECOMMENDS that this action be dismissed based  
6 on Plaintiff's failure to obey the Court's order of January 27, 2015.

7 These Findings and Recommendations are submitted to the United States District Judge  
8 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within ten (10)  
9 days after date of service of these Findings and Recommendations, Plaintiff may file written  
10 objections with the Court. Such a document should be captioned "Objections to Magistrate  
11 Judge's Findings and Recommendations." Plaintiff is advised that failure to file objections  
12 within the specified time may waive the right to appeal the District Court's order. Martinez v.  
13 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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15 IT IS SO ORDERED.

16 Dated: March 3, 2015

17 /s/ Dennis L. Beck

18 UNITED STATES MAGISTRATE JUDGE