

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ALEJANDRO VARGAS HERNANDEZ,

CASE NO. 1:11-CV-01373-AWI-DLB PC

Plaintiff,

ORDER DISMISSING ACTION FOR
FAILURE TO OBEY COURT ORDER

v.

(DOC. 2)

SIX UNKNOWN NAMES AGENTS, et al.,

Defendants.

Plaintiff Alejandro Vargas Hernandez (“Plaintiff”) is a federal prisoner proceeding pro se in this civil rights action. On August 24, 2011, the Magistrate Judge assigned to this action issued an order striking Plaintiff’s complaint as unsigned. Plaintiff was ordered to submit a signed complaint within ten days. Plaintiff was warned that failure to comply would result in dismissal of this action. As of the date of this order, Plaintiff has not responded or otherwise complied.

Local Rule 110 provides that “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 power to control their dockets and “in the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal of a case.” *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See, e.g., Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)(dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)(dismissal

1 for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir.
2 1986)(dismissal for failure to lack of prosecution and failure to comply with local rules).

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

10 In the instant case, the court finds that the public's interest in expeditiously resolving this
11 litigation and the court's interest in managing the docket weigh in favor of dismissal. On July 7,
12 2011, Plaintiff was ordered to file a signed complaint, but failed to do so. The third factor, risk
13 of prejudice to defendants, also weighs in favor of dismissal, since a presumption of injury arises
14 from the occurrence of unreasonable delay in prosecuting an action. *Anderson v. Air West*, 542
15 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on
16 their merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,
17 a court's warning to a party that his failure to obey the court's order will result in dismissal
18 satisfies the "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833
19 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. The court's order expressly stated: "Failure to
20 [file a signed complaint] in a timely manner will result in dismissal of this action." Thus,
21 plaintiff had adequate warning that dismissal would result from his noncompliance with the
22 Court's order.

23 Accordingly, it is HEREBY ORDERED that this action is DISMISSED for failure to
24 obey a court order.

25 IT IS SO ORDERED.

26 Dated: October 12, 2011

27 
28 CHIEF UNITED STATES DISTRICT JUDGE