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**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF CALIFORNIA

ALBERT LEDESMA,  
  
                    Plaintiff,  
  
          v.  
  
DOCTOR SWAY,  
  
                    Defendant.

Case No. 1:12-cv-01037 DLB PC  
  
**ORDER DISMISSING ACTION FOR  
FAILURE TO OBEY A COURT ORDER  
AND FAILURE TO STATE A CLAIM**

Plaintiff Albert Ledesma (“Plaintiff”) is a former prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983. On April 3, 2013, the Court dismissed Plaintiff’s Complaint for failure to state a claim with leave to amend, and ordered Plaintiff to file an amended complaint within thirty days. After failing to file an amended complaint, the Court issued an Order to Show Cause why the action should not be dismissed on May 30, 2013. Plaintiff was ordered to file a response within fourteen days. As of the date of this order, Plaintiff has not responded or otherwise contacted the Court.

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)

1 (per curiam). A court may dismiss an action, with prejudice, based on a party's failure to prosecute  
2 an action, failure to obey a court order, or failure to comply with local rules. *See, e.g., Ghazali v.*  
3 *Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v.*  
4 *Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to comply with an order  
5 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)  
6 (dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court apprised of  
7 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to  
8 comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for  
9 failure to lack of prosecution and failure to comply with local rules).

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

16 In the instant case, the Court finds that the public's interest in expeditiously resolving this  
17 litigation and the Court's interest in managing the docket weigh in favor of dismissal. This action  
18 has been pending since June 26, 2012, and there is no operative complaint. The third factor, risk of  
19 prejudice to defendants, also weighs in favor of dismissal, since a presumption of injury arises from  
20 the occurrence of unreasonable delay in prosecuting an action. *Anderson v. Air West*, 542 F.2d 522,  
21 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on their merits --  
22 is greatly outweighed by the factors in favor of dismissal discussed herein. Finally, a court's  
23 warning to a party that his failure to obey the court's order will result in dismissal satisfies the  
24 "consideration of alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;  
25 *Henderson*, 779 F.2d at 1424. The Court's order expressly stated: "Failure to timely respond or  
26 otherwise show cause will result in dismissal of this this action for failure to obey a court order and  
27 failure to state a claim." Thus, Plaintiff had adequate warning that dismissal would result from his  
28 noncompliance with the Court's order.

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Accordingly, it is HEREBY ORDERED that

1. This action is DISMISSED for failure to obey the Court's April 3, 2013 Order and for failure to state a claim upon which relief may be granted; and
2. The Clerk of the Court is directed to close this action.

IT IS SO ORDERED.

Dated: July 22, 2013

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE