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

JORGE GARCIA PICHARDO,	)	Case No.:12-cv-01254-DLB (HC)
	)	
Plaintiff,	)	ORDER DISMISSING PETITION FOR
	)	WRIT OF HABEAS CORPUS FOR
vs.	)	FAILURE TO COMPLY WITH COURT
	)	ORDER
M. STAINER,	)	
	)	[Doc. 14]
Defendant	)	

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States magistrate judge. Local Rule 305(b).

On August 20, 2012, the Court issued an order to show cause as to why the petition should not be dismissed for failure to exhaust the state court remedies, and Petitioner was directed to file a response within thirty days. Over thirty (30) days have passed and Petitioner has failed to file a response.

Local Rule 110 provides that a “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

1 inherent power to control their dockets and in the exercise of that power, they may impose  
2 sanctions including, where appropriate . . . dismissal of a case.” Thompson v. Housing Auth.,  
3 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a  
4 party’s failure to prosecute an action, failure to obey a court order, or failure to comply with  
5 local rules. See e.g. Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)(dismissal for  
6 noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)  
7 (dismissal for failure to comply with an order requiring amendment of complaint); Malone v.  
8 U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)(dismissal for failure to comply with court  
9 order).  
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11 In determining whether to dismiss an action for lack of prosecution, the Court must  
12 consider several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the  
13 Court’s need to manage its docket; (3) the risk of prejudice to the Respondents; (4) the public  
14 policy favoring disposition of cases on their merits; and, (5) the availability of less drastic  
15 alternatives. Henderson v. Duncan, 779 F.2d 1421, 1423 (9th Cir. 1986); Carey v. King, 856  
16 F.2d 1439 (9th Cir. 1988). The Court finds that the public’s interest in expeditiously resolving  
17 this litigation and the court’s interest in managing the docket weigh in favor of dismissal, as this  
18 case has been pending since April 11, 2012. The Court cannot hold this case in abeyance  
19 indefinitely awaiting compliance by Petitioner. The third factor, risk of prejudice to  
20 Respondents, also weighs in favor of dismissal, since a presumption of injury arises from the  
21 occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West, 542 F.2d 522,  
22 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on their  
23 merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Petitioner  
24 was advised in the prior order that the failure to comply with the order would result in the action  
25 being dismissed for failure to comply with a court order. Local Rule 110. Given Petitioner’s  
26 noncompliance with the Court’s order, no lesser sanction is feasible.  
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Based on the foregoing, it is HEREBY ORDERED that:

1. The instant petition for writ of habeas corpus is dismissed; and
2. The Clerk of Court is directed to terminate this action.

IT IS SO ORDERED.

Dated: October 9, 2012

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE