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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CARLOS SANCHEZ, JR.,)	1:13-CV-01982 DLB PC
)	
Plaintiff,)	ORDER DISMISSING COMPLAINT WITH
)	PREJUDICE FOR FAILURE TO STATE A
vs.)	CLAIM
)	
L.V.N. UBA, et al.,)	
)	
Defendants.)	

Plaintiff Carlos Sanchez, Jr., (“Plaintiff”) is a prisoner in the custody of the California Department of Corrections and Rehabilitation (“CDCR”). Plaintiff is proceeding pro se and in forma pauperis in this civil rights action filed on December 4, 2013. Plaintiff consented to the jurisdiction of the magistrate judge pursuant to 28 U.S.C. § 636(c) on December 30, 2013.

On December 2, 2014, the Court issued an order dismissing the complaint with leave to amend for failure to state a claim under 42 U.S.C. § 1983. Plaintiff was granted thirty (30) days to file a First Amended Complaint. Over thirty (30) days have passed, and Plaintiff has failed to comply or otherwise respond to the Court's order.

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

1 including, where appropriate . . . dismissal of a case.” Thompson v. Housing Auth., 782 F.2d
2 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party s
3 failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.
4 See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with
5 local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to
6 comply with an order requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-
7 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to
8 keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir.
9 1987) (dismissal for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421,
10 1424 (9th Cir. 1986) (dismissal for failure to lack of prosecution and failure to comply with local
11 rules).

12
13 In determining whether to dismiss an action for lack of prosecution, failure to obey a
14 court order, or failure to comply with local rules, the court must consider several factors: (1) the
15 public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its docket;
16 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
17 their merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;
18 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,
19 46 F.3d at 53.

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

7
8 **ORDER**

9 Accordingly, IT IS HEREBY ORDERED that the complaint is DISMISSED WITH
10 PREJUDICE for failure to state a claim.

11 This terminates this action in its entirety.

12 IT IS SO ORDERED.

13
14 Dated: January 16, 2015

/s/ Dennis L. Beck
15 UNITED STATES MAGISTRATE JUDGE