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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JORGE RUIZ,
Petitioner,
v.
FRESNO SUPERIOR COURT,
Respondent.

Case No. 1:14-cv-00112 GSA HC
ORDER DIRECTING CLERK OF COURT
TO ASSIGN DISTRICT JUDGE
FINDINGS AND RECOMMENDATION

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On January 27, 2014, Petitioner filed a petition for writ of habeas corpus. On January 28, 2014, the Clerk of Court served an order authorizing in forma pauperis status and an order regarding consent on Petitioner. On February 6, 2014, the orders served on Petitioner were returned by the U.S. Postal Service as undeliverable.

DISCUSSION

Local Rule 110 provides that a “[f]ailure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions authorized by statute or Rule or 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.

1 Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with
2 prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or
3 failure to comply with local rules. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53 54 (9th Cir. 1995)
4 (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260 61 (9th
5 Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint);
6 Carey v. King, 856 F.2d 1439, 1440 41 (9th Cir. 1988) (dismissal for failure to comply with local
7 rule requiring pro se plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service,
8 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); Henderson
9 v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to
10 comply with local rules). In determining whether to dismiss an action for lack of prosecution,
11 failure to obey a court order, or failure to comply with local rules, the court must consider
12 several factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's
13 need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
14 favoring disposition of cases on their merits; and (5) the availability of less drastic alternatives.
15 Ghazali, 46 F.3d at 53; Ferdik, 963 F.2d at 1260 61; Malone, 833 F.2d at 130; Thompson, 782
16 F.2d at 831; Henderson, 779 F.2d at 1423 24.

17 In the instant case, the Court finds that the public's interest in expeditiously resolving this
18 litigation and the Court's interest in managing the docket weigh in favor of dismissal because
19 this case has been pending in this Court since January 27, 2014. The third factor, risk of
20 prejudice to defendants, also weighs in favor of dismissal because a presumption of injury arises
21 from any unreasonable delay in prosecuting an action. Anderson v. Air West, 542 F.2d 522, 524
22 (9th Cir. 1976). The fourth factor, public policy favoring disposition of cases on their merits, is
23 greatly outweighed by the factors in favor of dismissal. Finally, there are no less drastic
24 alternatives since Petitioner has failed to keep the Court apprised of his current address; thus, the
25 Court has no way of communicating with Petitioner.

26 ORDER

27 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court is DIRECTED to assign
28 a District Judge to the case.

1 **RECOMMENDATION**

2 Accordingly, the Court HEREBY RECOMMENDS that this action be DISMISSED for
3 Petitioner's failure to comply with a court order.

4 This Findings and Recommendation is submitted to the assigned District Court Judge,
5 pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local Rules of
6 Practice for the United States District Court, Eastern District of California. Within thirty (30)
7 days after service of the Findings and Recommendation, Petitioner may file written objections
8 with the Court. Such a document should be captioned "Objections to Magistrate Judge's
9 Findings and Recommendation." The Court will then review the Magistrate Judge's ruling
10 pursuant to 28 U.S.C. § 636(b)(1)(C). Petitioner is advised that failure to file objections within
11 the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951
12 F.2d 1153 (9th Cir. 1991).

13
14 IT IS SO ORDERED.

15 Dated: April 21, 2014

/s/ Gary S. Austin
16 UNITED STATES MAGISTRATE JUDGE