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

ISMAEL LOPEZ-RANGEL,

Plaintiff,

v.

PAUL COPENHAVER, et al.,

Defendants.

Case No. 1:14-cv-01175 DLB PC

**ORDER DISMISSING ACTION  
FOR FAILURE TO COMPLY  
WITH COURT ORDER AND  
FAILURE TO PROSECUTE**

Plaintiff Ismael Lopez-Rangel (“Plaintiff”), a former federal prisoner proceeding pro se and in forma pauperis, filed this civil action on July 28, 2014, pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), which provides a remedy for violation of civil rights by federal actors.<sup>1</sup>

On January 22, 2015, the Court screened Plaintiff’s complaint and dismissed it with leave to amend. Plaintiff filed a First Amended Complaint on March 2, 2015.

The action was subsequently dismissed without prejudice on December 9, 2015, after Plaintiff was released and deported, but failed to keep the Court apprised of his current address. Plaintiff, who now resides in Mexico, filed a notice of change of address on January 21, 2016. The Court reopened this action on January 26, 2016.

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<sup>1</sup> Plaintiff consented to the jurisdiction of the United States Magistrate Judge on August 13, 2014.

1 On January 29, 2016, the Court screened Plaintiff's First Amended Complaint and dismissed  
2 it with leave to amend. Plaintiff was ordered to file an amended complaint within thirty (30) days.  
3 The Court noted that this would be Plaintiff's final opportunity to cure the deficiencies.

4 At this time, almost three months have passed since the Court's January 29, 2016, order, and  
5 Plaintiff has not filed an amended complaint or otherwise communicated with the Court.

### 6 DISCUSSION

7 "In determining whether to dismiss an action for lack of prosecution, the district court is  
8 required to consider several factors: (1) the public's interest in expeditious resolution of litigation;  
9 (2) the court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public  
10 policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions."  
11 *Carey v. King*, 856 F.2d 1439, 1440 (9th Cir. 1988) (internal quotation marks and citation omitted);  
12 *accord Omstead v. Dell, Inc.*, 594 F.3d 1081, 1084 (9th Cir. 2010); *In re Phenylpropanolamine*  
13 *(PPA) Products Liability Litigation*, 460 F.3d 1217, 1226 (9th Cir. 2006). These factors guide a  
14 court in deciding what to do, and are not conditions that must be met in order for a court to take  
15 action. *In re PPA*, 460 F.3d at 1226 (citation omitted).

16 The expeditious resolution of litigation and the Court's need to manage its docket weigh in  
17 favor of dismissal. *Id.* at 1227. Further, an opposing party is necessarily prejudiced by the aging of  
18 a case left to idle indefinitely as a result of the plaintiff's disinterest in either moving forward or  
19 taking action to dismiss the case. *Id.*

20 With respect to the fourth factor, "public policy favoring disposition of cases on their merits  
21 strongly counsels against dismissal," but "this factor lends little support to a party whose  
22 responsibility it is to move a case toward disposition on the merits but whose conduct impedes  
23 progress in that direction." *Id.* at 1228.

24 Finally, this case has now been pending since June 28, 2014, and there is no operative  
25 complaint on file. The Court has been lenient with Plaintiff in reopening this action and affording  
26 him numerous opportunities to prosecute this action. Additionally, given that Plaintiff resides in  
27 Mexico, the Court gave Plaintiff sufficient time past the thirty (30) day deadline prior to taking  
28 action. Plaintiff was warned that dismissal would result if he did not file an amended complaint.

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**ORDER**

Accordingly, the Court HEREBY DISMISSES this action, without prejudice, for Plaintiff's failure to follow the Court's orders and failure to prosecute.

This terminates this action in its entirety.

IT IS SO ORDERED.

Dated: April 27, 2016

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE