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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRYANT FRANK WILSON,
Plaintiff,
vs.
CDCR, ET AL.,
Defendant

Case No.1:14 cv 01338 AWI GSA PC

FINDINGS AND RECOMMENDATION
THAT THIS ACTION BE DISMISSED FOR
FAILURE TO PROSECUTE AND FAILURE
TO OBEY A COURT ORDER

OBJECTIONS DUE IN TWENTY DAYS

Plaintiff is a state prisoner proceeding pro se in this civil rights action . The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On August 29, 2014, and January 6, 2015, orders were entered, directing Plaintiff to return a consent form to the court. On both dates, the Court sent to Plaintiff the consent form. Plaintiff has not returned a form to 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

1 Cir. 1986). 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.
6 1988)(dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court
7 apprised of address(; Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)(dismissal
8 for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir.
9 1986)(dismissal for 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
11 court order, or failure to comply with local rules, the Court must consider several factors: (1) the
12 public's interest in expeditious resolution of litigation, (2) the court's need to manage its docket;
13 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
14 their merits; and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;
15 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,
16 46 F.3d at 53.

17 Here, the Court finds that the public's interest in expeditiously resolving this litigation
18 and the Court's interest in managing the docket weigh in favor of dismissal. The third factor,
19 risk of prejudice to Defendants, also weighs in favor of dismissal, since a presumption of injury
20 arises from the occurrence of unreasonable delay in prosecuting an action. Anderson v. Air West,
21 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy favoring disposition of cases
22 on the merits – is greatly outweighed by the factors in favor of dismissal discussed herein.
23 Finally, a court's warning to a party that his failure to obey the court's order will result in
24 dismissal satisfies the "consideration of alternatives" requirement. Ferdik, 963 F.2d at 1262;
25 Malone, 833 F.2d at 132-33; Henderson, 779 F.2d at 1424.

26 Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed for
27 Plaintiff's failure to obey a court order.

