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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF CALIFORNIA
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10 JOSEPH RIVERA,
11 Plaintiff,

12 vs.

13 OFFICER BORDEN,
14 Defendant

Case No.1:14 cv 01423 GSA PC

ORDER DISMISSINT THIS ACTION FOR
FAILURE TO OBEY A COURT ORDER

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16 Plaintiff is a state prisoner proceeding pro se in this civil rights action . Plaintiff has
17 consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c).¹
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19 On January 13, 2015, an order was entered, directing Plaintiff to complete and return to
20 the Court a completed USM 285 form for service upon Defendant Borden. Plaintiff was
21 specifically cautioned that his failure to comply would result in dismissal for failure to obey a
22 court order. Plaintiff has not returned the completed form or in any way responded to the
23 January 13, 2015, order.

24 Local Rule 110 provides that “failure of counsel or of a party to comply with these Local
25 Rules or with any order of the Court may be grounds for the imposition by the Court of any and
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28 ¹ Plaintiff filed a consent to proceed before a magistrate judge on October 8, 2014 (ECF No. 4).

1 all sanctions . . . within the inherent power of the Court.” District courts have the inherent power
2 to control their dockets and “in the exercise of that power, they may impose sanctions including,
3 where appropriate . . . dismissal of a case.” Thompson v. Housing Auth., 782 f.2d 829, 831 (9th
4 Cir. 1986). A court may dismiss an action, with prejudice, based on a party’s failure to prosecute
5 an action, failure to obey a court order, or failure to comply with local rules. See, e.g., Ghazali v.
6 Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)(dismissal for noncompliance with local rule); Ferdik v.
7 Bonzelet, 963 F.2d 1258, 1260-61 (9th Cir. 1992)(dismissal for failure to comply with an order
8 requiring amendment of complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir.
9 1988)(dismissal for failure to comply with local rule requiring pro se plaintiffs to keep court
10 apprised of address(; Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987)(dismissal
11 for failure to comply with court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir.
12 1986)(dismissal for lack of prosecution and failure to comply with local rules).

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

1 Malone, 833 F.2d at 132-33; Henderson, 779 F.2d at 1424.

2 Accordingly, IT IS HEREBY ORDERED that this action is dismissed for Plaintiff's
3 failure to obey a court order. The Clerk is directed to close this case.
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6 IT IS SO ORDERED.

7 Dated: February 20, 2015

8 /s/ Gary S. Austin

9 UNITED STATES MAGISTRATE JUDGE
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