

1 Local Rule 110 provides that “[f]ailure of counsel or of a party to comply with these Rules or
2 with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . .
3 within the inherent power of the Court.” District Courts have the inherent power to control their
4 dockets and “in the exercise of that power, they may impose sanctions including, where appropriate . . .
5 dismissal of a case. Thompson v. Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may
6 dismiss an action with prejudice, based on a party’s failure to prosecute an action, failure to obey a
7 court order, or failure to comply with local rules. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th
8 Cir. 1995) (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-1261
9 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of complaint); Carey
10 v. King, 856 F.2d 1439, 1440-1441 (9th Cir. 1988)(dismissal for failure to comply with local rule
11 requiring pro se plaintiffs to keep court apprised of address); Malone v. U.S. Postal Service, 833 F.2d
12 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); Henderson v. Duncan, 779
13 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local
14 rules).

15 In determining whether to dismiss an action for lack of prosecution, the court must consider
16 several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to
17 manage its docket; (3) the risk of prejudice to the Respondents; (4) the public policy favoring
18 disposition of cases on their merits; and, (5) the availability of less drastic alternatives. Henderson, 779
19 F.2d at 1423; Ghazali, 46 F.3d at 53; Ferdik, 963 F.2d at 1260-1261; Malone, 833 F.2d at 130;
20 Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-1424.

21 Here, the Court finds that the public’s interest in expeditiously resolving this litigation and the
22 Court’s interest in managing the docket weigh in favor of dismissal, as this case has been pending since
23 February 24, 2015. The third factor, risk of prejudice to Respondent, also weighs in favor of dismissal,
24 since a presumption of injury arises from the occurrence of unreasonable delay in prosecuting an
25 action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy
26 favoring 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 failure to obey the court’s order will result
28 in dismissal satisfies the “consideration of alternatives” requirement. Ferdik, 963 F.2d at 1262;

1 Malone, 833 at 132-33; Henderson, 779 F.2d at 1424. The Court’s order dated May 20, 2015,
2 expressly stated: “Petitioner is forewarned that failure to comply with this order will result in a
3 recommendation to dismiss the petition pursuant.” (Doc. 15, p. 3). Petitioner was also advised that no
4 further extensions of time would be granted. (Id.). Thus, Petitioner had adequate warning that
5 dismissal would result from his noncompliance with the Court’s order.

6 **ORDER**

7 Accordingly, the Clerk of the Court is HEREBY DIRECTED to assign a United States District
8 Judge to this case.

9 **RECOMMENDATION**

10 For the foregoing reasons, the Court HEREBY RECOMMENDS that the instant petition for
11 writ of habeas corpus (Doc. 1), be **DISMISSED** for failure to obey the Court’s orders.

12 This Findings and Recommendation is submitted to the United States District Court Judge
13 assigned to this case, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B) and Rule 304 of the
14 Local Rules of Practice for the United States District Court, Eastern District of California.

15 **Within 21 days** after being served with a copy, any party may file written objections with the court and
16 serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s
17 Findings and Recommendation.” Replies to the objections shall be served and filed within **ten days**
18 after service of the objections. The Court will then review the Magistrate Judge’s ruling pursuant to 28
19 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time
20 may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.
21 1991).

22
23 IT IS SO ORDERED.

24 Dated: October 28, 2015

/s/ Jennifer L. Thurston
25 UNITED STATES MAGISTRATE JUDGE