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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BRANDON ALEXANDER FAVOR,

Plaintiff,

v.

CALIFORNIA STATE PRISON, et al.,

Defendants.

Case No. 1:15-cv-01009 LJO DLB PC

**FINDINGS AND RECOMMENDATIONS
REGARDING DISMISSAL OF ACTION FOR
FAILURE TO FOLLOW COURT ORDER**

FIFTEEN-DAY DEADLINE

Plaintiff Brandon Alexander Favor (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. He filed this action on June 30, 2015.

On November 4, 2015, the Court dismissed Plaintiff’s complaint with leave to amend. Plaintiff was ordered to file an amended complaint within thirty (30) days of the date of service of the order.

After the time for filing an amended complaint passed, the Court issued an order to show cause why the action should not be dismissed for failure to follow a Court order. Plaintiff was ordered to file a response, or an amended complaint, within thirty (30) days of the date of service. Over thirty (30) days have passed and Plaintiff has failed to file a response or otherwise communicate with the Court.

1 DISCUSSION

2 The Court has the inherent power to control its docket and may, in the exercise of that power,
3 impose sanctions where appropriate, including dismissal of the action. *Bautista v. Los Angeles*
4 *Cnty.*, 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action, the Court
5 must weigh “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to
6 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
7 disposition of cases on their merits; and (5) the availability of less drastic sanctions.” *In re*
8 *Phenylpropanolamine (PPA) Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (internal
9 quotations and citations omitted). These factors guide a court in deciding what to do, and are not
10 conditions that must be met in order for a court to take action. *Id.* (citation omitted).

11 Based on Plaintiff’s failure to comply with or otherwise respond to the Court’s order, the
12 Court is left with no alternative but to dismiss the action for failure to prosecute. *Id.* This action can
13 proceed no further without Plaintiff’s cooperation and compliance with the order at issue, and the
14 action cannot simply remain idle on the Court’s docket, unprosecuted. *Id.* The Court notes that
15 Plaintiff was also warned that failure to comply with the order to show cause may result in dismissal
16 of this action.

17 FINDINGS AND RECOMMENDATIONS

18 Accordingly, it is HEREBY RECOMMENDED that this action be dismissed, with prejudice,
19 for failure to obey a court order and failure to prosecute.

20 These Findings and Recommendations are submitted to the United States District Judge
21 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fifteen (15)**
22 **days** after being served with these Findings and Recommendations, Plaintiff may file written
23 objections with the Court. Such a document should be captioned “Objections to Magistrate Judge’s
24 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the

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1 specified time may waive the right to appeal the District Court's order. *Martinez v. Ylst*, 951 F.2d
2 1153 (9th Cir. 1991).

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4 IT IS SO ORDERED.

5 Dated: February 4, 2016

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE

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