



1 54 (9<sup>th</sup> Cir. 1995)(dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258,  
2 1260-1261 (9<sup>th</sup> Cir. 1992)(dismissal for failure to comply with an order requiring amendment of  
3 complaint); Carey v. King, 856 F.2d 1439, 1440-1441 (9<sup>th</sup> Cir. 1988)(dismissal for failure to comply  
4 with local rule requiring pro se plaintiffs to keep court apprised of address); Malone v. U.S. Postal  
5 Service, 833 F.2d 128, 130 (9<sup>th</sup> Cir. 1987)(dismissal for failure to comply with court order);  
6 Henderson v. Duncan, 779 F.2d 1421, 1424 (9<sup>th</sup> Cir. 1986)(dismissal for lack of prosecution and  
7 failure to comply with local rules).

8 In determining whether to dismiss an action for lack of prosecution, the court must consider  
9 several factors: (1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to  
10 manage its docket; (3) the risk of prejudice to the Respondents; (4) the public policy favoring  
11 disposition of cases on their merits; and, (5) the availability of less drastic alternatives. Henderson,  
12 779 F.2d at 1423; Ghazali, 46 F.3d at 53; Ferdik, 963 F.2d at 1260-1261; Malone, 833 F.2d at 130;  
13 Thompson, 782 F.2d at 831; Henderson, 779 F.2d at 1423-1424.

14 Here, the Court finds that the public’s interest in expeditiously resolving this litigation and the  
15 Court’s interest in managing the docket weigh in favor of dismissal, as this case has been pending  
16 since June 10, 2016. The third factor, risk of prejudice to Respondent, also weighs in favor of  
17 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay in  
18 prosecuting an action. Anderson v. Air West, 542 F.2d 522, 524 (9<sup>th</sup> Cir. 1976). The fourth factor --  
19 public policy favoring disposition of cases on their merits -- is greatly outweighed by the factors in  
20 favor of dismissal discussed herein. Finally, a court’s warning to a party that failure to obey the  
21 court’s order will result in dismissal satisfies the “consideration of alternatives” requirement. Ferdik,  
22 963 F.2d at 1262; Malone, 833 at 132-33; Henderson, 779 F.2d at 1424. The Court’s order dated \*\*\*,  
23 2014, expressly stated: “Petitioner is forewarned that his failure to comply with this order or his failure  
24 to show exhaustion will result in a recommendation that the Petition be dismissed pursuant to Local  
25 Rule 110.” (Doc. 4, p. 4). This admonition was written in bold and underlined for emphasis. Thus,  
26 Petitioner had adequate warning that dismissal would result from his noncompliance with the Court’s  
27 order.

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**ORDER**

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

**RECOMMENDATION**

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

This Findings and Recommendation is submitted to the United States District Court Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of California. **Within 21 days** after being served with a copy of this Findings and Recommendation, any party may file written objections with the Court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendation.” Replies to the Objections shall be served and filed within 10 days (plus three days if served by mail) after service of the Objections. The Court will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time may waive the right to appeal the Order of the District Court. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

IT IS SO ORDERED.

Dated: August 13, 2016

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE