



1 or with any order of the Court may be grounds for imposition by the Court of any and all  
2 sanctions...within the inherent power of the Court.” District Courts have the inherent power to  
3 control their dockets and “in the exercise of that power, they may impose sanctions including,  
4 where appropriate...dismissal of a case. Thompson v. Housing Auth., 782 F.2d 829, 831 (9th  
5 Cir. 1986). A court may dismiss an action with prejudice, based on a party’s failure to prosecute  
6 an action, failure to obey a court order, or failure to comply with local rules. See, e.g., Ghazali v.  
7 Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)(dismissal for noncompliance with local rule); Ferdik v.  
8 Bonzelet, 963 F.2d 1258, 1260-1261 (9th Cir. 1992)(dismissal for failure to comply with an order  
9 requiring amendment of complaint).

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

15 Here, the Court finds that the public’s interest in expeditiously resolving this litigation and  
16 the Court’s interest in managing the docket weigh in favor of dismissal, as this case has been  
17 pending since August 8, 2016. The third factor, risk of prejudice to Respondent, also weighs in  
18 favor of dismissal, since a presumption of injury arises from the occurrence of unreasonable delay  
19 in prosecuting an action. Anderson v. Air West, 542 F.2d 522, 524 (9th Cir. 1976). The fourth  
20 factor -- public policy favoring disposition of cases on their merits -- is greatly outweighed by the  
21 factors in favor of dismissal discussed herein. Finally, a court’s warning to a party that failure to  
22 obey the court’s order will result in dismissal satisfies the “consideration of alternatives”  
23 requirement. Ferdik, 963 F.2d at 1262. The Court’s order dated August 11, 2016, expressly  
24 stated: “Petitioner is forewarned that failure to follow this Order may result in an Order of  
25 Dismissal or a Recommendation that the petition be dismissed pursuant to Local Rule 110.”  
26 (Doc. No. 5, p. 3). Thus, Petitioner had adequate warning that dismissal would result from his  
27 noncompliance with the Court’s 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. No. 1), be DISMISSED for failure to obey the Court’s order.

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: September 19, 2016

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE