

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CEDRIC CHESTER JOHNSON,
Plaintiff,
v.
NORTH KERN STATE PRISON, et al.,
Defendants.

Case No. 1:16-cv-01370-DAD-JLT (PC)
ORDER TO SHOW CAUSE WHY THE
ACTION SHOULD NOT BE DISMISSED
FOR PLAINTIFF'S FAILURE TO
COMPLY WITH THE COURT'S ORDER
(Docs. 15, 18)
21-DAY DEADLINE

On November 1, 2017, the Court issued an order finding that Plaintiff failed to link the named defendants to his factual allegations, dismissing the First Amended Complaint, and granting Plaintiff one last opportunity to amend his pleading. (Doc. 15.)

Before the deadline lapsed, Plaintiff filed a motion requesting an extension of 90 days to file a second amended complaint as he anticipated being released from custody¹ and intended to secure an attorney. (Doc. 17.) The order which granted the extension specifically stated that no further extensions of time would be granted and Plaintiff's failure to retain an attorney in time to file a timely second amended complaint would not equate to good cause for further extension of time as 90 days was much longer than extensions routinely granted for cases under 42 U.S.C. § 1983. (Doc. 18.) Despite this warning, more than 90 days have passed and Plaintiff has failed to

¹ Plaintiff's address of record was updated in this action on January 22, 2018, pursuant to a notice of change of address Plaintiff filed in another action, 1:16-cv-01371-DAD-BAM.

1 file an amended complaint or otherwise respond to the Court's Order.

2 The Local Rules, corresponding with Fed. R. Civ. P. 11, provide, "[f]ailure of counsel or
3 of a party to comply with . . . any order of the Court may be grounds for the imposition by the
4 Court of any and all sanctions . . . within the inherent power of the Court." Local Rule 110.
5 "District courts have inherent power to control their dockets," and in exercising that power, a court
6 may impose sanctions, including dismissal of an action. *Thompson v. Housing Authority of Los*
7 *Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action with prejudice, based
8 on a party's failure to prosecute an action or failure to obey a court order, or failure to comply with
9 local rules. *See, e.g. Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
10 failure to comply with an order requiring amendment of complaint); *Malone v. U.S. Postal*
11 *Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with a court order);
12 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for failure to prosecute and
13 to comply with local rules).

14 Accordingly, **within 21 days**, Plaintiff is **ORDERED** to show cause why the action should
15 not be dismissed for both his failure to prosecute and to comply with the Court's order;
16 alternatively, within that same time, Plaintiff may file a notice of voluntary dismissal.

17
18 IT IS SO ORDERED.

19 Dated: March 14, 2018

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE

20
21
22
23
24
25
26
27
28