

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

RANDY STOOPS,  
Plaintiff,  
v.  
STUART SHERMAN, et al.,  
Defendants.

CASE NO. 1:16-cv-01581-DAD-MJS (PC)

**ORDER TO SHOW CAUSE WHY ACTION  
SHOULD NOT BE DISMISSED WITH  
PREJUDICE FOR FAILURE TO STATE A  
CLAIM, FAILURE TO OBEY A COURT  
ORDER, AND FAILURE TO PROSECUTE**

**(ECF No. 7)**

**FOURTEEN (14) DAY DEADLINE**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983.

On December 12, 2016, the Court dismissed Plaintiff's complaint for failure to state a claim but gave thirty days leave to amend. (ECF No. 7.) The thirty-day deadline passed without Plaintiff filing either an amended pleading or notice of voluntary dismissal, or seeking an extension of time to do so.

Local Rule 110 provides that "failure of counsel or of a party to comply with these Rules or with any order of the Court may be grounds for imposition by the Court of any and all sanctions . . . within the inherent power of the Court." District courts have the inherent power to control their dockets and "in the exercise of that power, they may

1 impose sanctions including, where appropriate, default or dismissal.” Thompson v.  
2 Housing Auth., 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with  
3 prejudice, based on a party’s failure to prosecute, failure to obey a court order, or failure  
4 to comply with local rules. See, e.g., Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir. 1995)  
5 (dismissal for noncompliance with local rule); Ferdik v. Bonzelet, 963 F.2d 1258, 1260-  
6 61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of a  
7 complaint); Carey v. King, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure  
8 to comply with local rule requiring pro se plaintiffs to keep court apprised of address);  
9 Malone v. U.S. Postal Service, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to  
10 comply with a court order); Henderson v. Duncan, 779 F.2d 1421, 1424 (9th Cir. 1986)  
11 (dismissal for lack of prosecution and failure to comply with local rules).

12 Based on the foregoing, it is HEREBY ORDERED THAT:

- 13 1. Within fourteen (14) days of service of this Order, Plaintiff shall file either:  
14 a. File an amended complaint or notice of voluntary dismissal, or  
15 b. Show cause as to why this action should not be dismissed with  
16 prejudice for failure to state a claim, failure to prosecute, and failure  
17 to comply with the Court’s order (ECF No. 7); and  
18 2. If Plaintiff fails to comply with this order, the undersigned will recommend  
19 that the action be dismissed with prejudice.

20  
21 IT IS SO ORDERED.

22 Dated: January 24, 2017

23 /s/ Michael J. Seng  
24 UNITED STATES MAGISTRATE JUDGE