

1 The Findings and Recommendations were served on Plaintiff and contained notice that objections
2 were to be filed within fourteen days. Plaintiff did not file objections, and the Findings and
3 Recommendations were adopted in full on March 22, 2018, and the action was dismissed. (ECF No.
4 21.)

5 On August 6, 2018, Plaintiff filed a motion for reconsideration. (ECF No. 23.) Plaintiff
6 requested the Court to reopen the action because he had been undergoing mental health treatment and
7 had been transferred to multiple different facilities and denied access to the court and his legal
8 materials. (ECF. No. 21.) As a result, Plaintiff claimed he was unable to respond to the Court’s
9 orders. (Id.) On August 8, 2018, the undersigned granted Plaintiff’s request to reopen the action, and
10 directed Plaintiff to file an amended complaint within thirty days. (ECF No. 24.)

11 On August 31, 2018, and October 5, 2018, the Court granted Plaintiff thirty additional days to
12 file the amended complaint, resulting in a deadline of November 5, 2018. (ECF Nos. 26, 28.) To date,
13 Plaintiff has not file an amended complaint or otherwise responded to the Court’s order. Accordingly,
14 dismissal of the action is warranted.

15 **II.**
16 **DISCUSSION**

17 The Court has the inherent power to control its docket and may, in the exercise of that power,
18 impose sanctions where appropriate, including dismissal of the action. Bautista v. Los Angeles Cnty.,
19 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action, the Court must weigh
20 “(1) the public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its
21 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases
22 on their merits; and (5) the availability of less drastic sanctions.” In re Phenylpropanolamine (PPA)
23 Prod. Liab. Litig., 460 F.3d 1217, 1226 (9th Cir. 2006) (internal quotations and citations omitted).
24 These factors guide a court in deciding what to do, and are not conditions that must be met in order for
25 a court to take action. Id. (citation omitted).

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1 Based on Plaintiff's failure to comply with or otherwise respond to the Court's order, the Court
2 is left with no alternative but to dismiss the action for failure to prosecute. Id. This action can proceed
3 no further without Plaintiff's cooperation and compliance with the order at issue, and the action cannot
4 simply remain idle on the Court's docket, unprosecuted. Id.

5 **III.**

6 **RECOMMENDATION**

7 Accordingly, it is HEREBY RECOMMENDED that:

8 1. This action be dismissed for failure to comply with a court order and for failure to state
9 a cognizable claim for relief; and

10 2. The Clerk of Court be directed to terminate this action.

11 This Findings and Recommendation will be submitted to the United States District Judge
12 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **fourteen (14) days**
13 after being served with this Findings and Recommendation, Plaintiff may file written objections with
14 the Court. The document should be captioned "Objections to Magistrate Judge's Findings and
15 Recommendation." Plaintiff is advised that failure to file objections within the specified time may
16 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014)
17 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

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19 IT IS SO ORDERED.

20 Dated: November 13, 2018



21 UNITED STATES MAGISTRATE JUDGE