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3 **UNITED STATES DISTRICT COURT**

4 EASTERN DISTRICT OF CALIFORNIA

5
6 BERT HARRIS,

7 Plaintiff,

8 v.

9
10 SERGEANT MIKE SEVERSON, individually
and in his official capacity, and CITY OF
11 FRESNO, individually and in their official
capacity ,

12 Defendants.
13

Case No. 1:17-cv-1750-AWI-SKO

**ORDER TO SHOW CAUSE WHY THE
ACTION SHOULD NOT BE DISMISSED
FOR PLAINTIFF’S FAILURE TO
COMPLY WITH THE COURT’S
ORDER AND FOR FAILURE TO
STATE A CLAIM**

(Doc. 4.)

TWENTY-ONE (21) DAY DEADLINE

14
15 Plaintiff, Bert Harris, is a prisoner in the custody of Fresno County Jail. On December 27,
16 2017, Plaintiff, proceeding *pro se*, filed a civil rights complaint against Defendants Sergeant Mike
17 Severson and the City of Fresno purporting to allege causes of action for excessive force and
18 failure to properly train officers in violation of Plaintiff’s “8th Amendment Rights to the United
19 States Constitution,” apparently arising out of his arrest by Defendants. (Doc. 1 at 3–4.) Plaintiff
20 also filed an application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915, which was
21 granted on January 10, 2018. (Docs. 2 & 3.)

22 On February 13, 2018, the undersigned issued a screening order finding that Plaintiff failed
23 to state any cognizable claims and granted Plaintiff thirty days leave to file an amended complaint
24 curing the pleading deficiencies identified in the order. (Doc. 4.) Although more than the allowed
25 time has passed, Plaintiff has failed to file an amended complaint or otherwise respond to the
26 Court’s screening order.

27 The Local Rules, corresponding with Fed. R. Civ. P. 11, provide, “[f]ailure of counsel or
28 of a party to comply with . . . any order of the Court may be grounds for the imposition by the

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

11 **Accordingly, Plaintiff is ORDERED to show cause, within twenty-one (21) days of the**
12 **date of service of this Order, why a recommendation should not issue for this action to be**
13 **dismissed for Plaintiff’s failure comply with the Court’s February 13, 2018 screening order**
14 **by not filing an amended complaint within the specified period of time and for failure to**
15 **state a cognizable claim.** Alternatively, within that same time period, Plaintiff may file an
16 amended complaint or a notice of voluntary dismissal. The Court further CAUTIONS Plaintiff
17 that, if he fails to take action within twenty-one (21) days of the date of service of this order, the
18 Court will recommend to the presiding district court judge that this action be dismissed, in its
19 entirety.

20 The Court DIRECTS the Clerk to send a copy of this Order to Plaintiff at his address listed
21 on the docket for this matter.

22 IT IS SO ORDERED.

23 Dated: March 20, 2018

24 /s/ Sheila K. Oberto
25 UNITED STATES MAGISTRATE JUDGE
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