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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

JASON A. BREWER,	)	Case No.: 1:18-cv-00492-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER DIRECTING CLERK OF COURT TO
v.	)	RANDOMLY ASSIGN A DISTRICT JUDGE TO
	)	THIS ACTION
STATE OF CALIFORNIA DEPARTMENT	)	
OF CORRECTIONS AND	)	FINDINGS AND RECOMMENDATION
REHABILITATION, et al.,	)	RECOMMENDING DISMISSAL OF ACTION
	)	FOR FAILURE TO COMPLY WITH A COURT
Defendants.	)	ORDER AND FAILURE TO STATE A
	)	COGNIZABLE CLAIM FOR RELIEF
	)	
	)	[ECF Nos. 1, 7]

Plaintiff Jason A. Brewer is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On April 18, 2018, the Court screened the complaint and granted Plaintiff leave to file an amended complaint within thirty days. 28 U.S.C. § 1915A; 28 U.S.C. § 1915(e). Plaintiff was warned that if he failed to comply, the Court would recommend dismissal of the action. (ECF No. 17.) More than thirty days have passed, and Plaintiff has not complied with or otherwise responded to the order.

The Court has the inherent power to control its docket and may, in the exercise of that power, impose sanctions where appropriate, including dismissal of the action. Bautista v. Los Angeles Cnty., 216 F.3d 837, 841 (9th Cir. 2000). In determining whether to dismiss an action for failure to comply

1 with a pretrial order, the Court must weigh “(1) the public’s interest in expeditious resolution of  
2 litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the defendants; (4) the  
3 public policy favoring disposition of cases on their merits; and (5) the availability of less drastic  
4 sanctions.” In re Phenylpropanolamine (PPA) Products Liability Litig., 460 F.3d 1217, 1226 (9th Cir.  
5 2006) (internal quotations and citations omitted). These factors guide a court in deciding what to do,  
6 and are not conditions that must be met in order for a court to take action. Id. (citation omitted).  
7 Based on Plaintiff’s failure to comply with or otherwise respond to the order, this action should be  
8 dismissed. Id. This action, which has been pending April 2018, can proceed no further without  
9 Plaintiff’s cooperation and compliance with the order at issue, and the action cannot simply remain  
10 idle on the Court’s docket, unprosecuted. Id.

11 Based on the foregoing, it is HEREBY RECOMMENDED that:

- 12 1. The instant action be dismissed for failure to state a cognizable claim under 42  
13 U.S.C. § 1983;
- 14 2. The Clerk of Court be directed to terminate this action; and
- 15 3. The Office of the Clerk is directed to randomly assign this action to a District  
16 Judge.

17 These Findings and Recommendations will be submitted to the United States District Judge  
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within **twenty-one (21)**  
19 **days** after being served with these Findings and Recommendations, Plaintiff may file written  
20 objections with the Court. The document should be captioned “Objections to Magistrate Judge’s  
21 Findings and Recommendations.” Plaintiff is advised that failure to file objections within the  
22 specified time may result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 838-  
23 39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)

24  
25 IT IS SO ORDERED.

26 Dated: May 29, 2018



27 UNITED STATES MAGISTRATE JUDGE

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