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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 RONNIE GOLDMAS,

12 Plaintiff,

13 v.

14 L. VAN WEGEN, et al.,

15 Defendants.
16

No. 2:16-cv-3009 JAM DB P

ORDER TO SHOW CAUSE

17 By order filed April 3, 2017, plaintiff's complaint was screened and found to state a
18 cognizable First Amendment retaliation claim against Correctional Officer ("CO") Bacerra,
19 CO Lo, and Sgt. Van Wegen. It was also found to state an Eighth Amendment excessive force
20 claim against CO Bacerra and Sgt. Van Wegen. Plaintiff was then granted leave to amend.
21 Alternatively, he was directed to submit a notice of his willingness to proceed on the complaint as
22 screened. The deadline for responding to the court's order has now passed, and plaintiff has not
23 filed an amended complaint or otherwise responded to the order.

24 Local Rule 110 provides that "failure of counsel or of a party to comply with these Rules
25 or with any order of the Court may be grounds for imposition by the Court of any and all
26 sanctions . . . within the inherent power of the Court." District courts have the inherent power to
27 control their dockets and "in the exercise of that power, they may impose sanctions including,
28 where appropriate, default or dismissal." Thompson v. Housing Auth., 782 F.2d 829, 831 (9th

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

10 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
11 order, or failure to comply with local rules, the Court must consider several factors: (1) the
12 public's interest in expeditious resolution of litigation, (2) the Court's need to manage its docket,
13 (3) the risk of prejudice to the defendants, (4) the public policy favoring disposition of cases on
14 their merits, and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;
15 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,
16 46 F.3d at 53.


17 In the instant case, the public's interest in expeditiously resolving this litigation and the
18 Court's interest in managing its docket weigh in favor of dismissal. The third factor, risk of
19 prejudice to Defendants, also weighs in favor of dismissal, since a presumption of injury arises
20 from the occurrence of unreasonable delay in prosecuting this action. Anderson v. Air West, 542
21 F.2d 522, 524 (9th Cir. 1976). The fourth factor -- public policy favoring disposition of cases on
22 their merits -- is greatly outweighed by the factors in favor of dismissal discussed herein. Finally,
23 as for the availability of lesser sanctions, at this stage in the proceedings there is little available
24 which would constitute a satisfactory lesser sanction while preserving scarce Court resources.
25 Plaintiff has not paid the filing fee for this action and is likely unable to pay, making monetary
26 sanctions of little use.

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1 Accordingly, IT IS HEREBY ORDERED that plaintiff shall show cause within fourteen
2 days from the date of this order why this action should not be dismissed for failure to comply
3 with a court order.

4 Dated: June 2, 2017

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7 DEBORAH BARNES
8 UNITED STATES MAGISTRATE JUDGE

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