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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT PENALOZA,
Plaintiff,
v.
SALAHUDDIN ABDUR-RAHMAN, et
al.,
Defendants.

No. 2:17-cv-1015 DB P

ORDER TO SHOW CAUSE

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. He has consented to the jurisdiction of a magistrate judge.

On June 8, 2017, plaintiff’s complaint was dismissed with leave to amend for failure to state a claim. (ECF No. 4.) Plaintiff was granted thirty days to file an amended complaint. That thirty-day period has now passed, and plaintiff has not filed an amended complaint or otherwise responded to the court’s order.

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 impose sanctions including,

1 where appropriate, default or dismissal.” Thompson v. Housing Auth., 782 F.2d 829, 831 (9th
2 Cir. 1986).

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


12 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
13 order, or failure to comply with local rules, the Court must consider several factors: (1) the
14 public’s interest in expeditious resolution of litigation, (2) the Court’s need to manage its docket,
15 (3) the risk of prejudice to the defendants, (4) the public policy favoring disposition of cases on
16 their merits, and (5) the availability of less drastic alternatives. Thompson, 782 F.2d at 831;
17 Henderson, 779 F.2d at 1423-24; Malone, 833 F.2d at 130; Ferdik, 963 F.2d at 1260-61; Ghazali,
18 46 F.3d at 53.

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

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

Dated: July 26, 2017



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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