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2 UNITED STATES DISTRICT COURT  
3 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
4 OAKLAND DIVISION  
5

6 DALE THOMAS ANDERSON,

7  
8 Petitioner,

9 vs.

10 EDMUND G. BROWN, JR., et al.,

11 Respondents.  
12

Case No: C 10-2020 SBA (PR)

**ORDER TO SHOW CAUSE RE  
DISMISSAL**

13  
14 By Order dated December 9, 2010, the Court denied Respondent's motion to  
15 dismiss, and granted Petitioner's request to stay the action so that he could return to state  
16 court to exhaust his unexhausted claims. Dkt. 6 at 2. The Order stated, inter alia, that:  
17 "Respondent's motion to dismiss the petition for failure to exhaust state court remedies  
18 (docket no. 4) is DENIED without prejudice to refile if Petitioner fails diligently to  
19 pursue exhaustion in state court of his unexhausted claims." Id.

20 The Court administratively closed the action during the pendency of the stay. Id. at  
21 3. In addition, the Court directed that: "[Petitioner] must file quarterly reports describing  
22 the progress of his state court proceedings, commencing **thirty (30) days** from the date of  
23 this Order and continuing every **ninety (90) days** thereafter until his state court proceedings  
24 are terminated. He must also attach to his status reports copies of the cover page of any  
25 document that he files with or receives from the California Supreme Court relating to the  
26 claims." Id. at 2-3 (emphasis in original). In violation of that Order, Petitioner has failed to  
27 file any status reports. The Court has reviewed the California Court's website, but has been  
28 unable to locate any information regarding whether Petitioner made any further efforts to

1 exhaust his unexhausted claims.

2 District courts may dismiss an action based on the failure of a habeas petitioner to  
3 comply with a court order or for lack of prosecution. Fed. R. Civ. P. 41(b); Link v. Wabash  
4 R.R. Co., 370 U.S. 626, 629-30 (1962); Pagtalunan v. Galaza, 291 F.3d 639, 640 (9th Cir.  
5 2002) (affirming dismissal of habeas petition because of petitioner's disobedience with  
6 orders setting filing deadlines); see also Ghazali v. Moran, 46 F.3d 52, 53-54 (9th Cir.1995)  
7 (affirming dismissal of prisoner's civil rights complaint for failure to file opposition to  
8 motion to dismiss as required by local rule). In determining whether to dismiss a claim for  
9 disobedience with a court order or the failure to prosecute pursuant to Rule 41(b), the court  
10 must weigh the following factors: (1) the public's interest in expeditious resolution of  
11 litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the  
12 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
13 availability of less drastic alternatives. Pagtalunan, 291 F.3d at 642; Ferdik v. Bonzelet,  
14 963 F.2d 1258, 1260-61 (9th Cir. 1992). Accordingly,

15 IT IS HEREBY ORDERED THAT within **twenty-eight (28) days** of the date this  
16 Order is filed, each party shall file a Certificate of Counsel to explain why the case should  
17 or should not be dismissed. The Certificate shall set forth the nature of the cause, its  
18 present status, the reason why a final determination of the action has not been sought or the  
19 action otherwise terminated, any basis for opposing dismissal and its expected course if not  
20 dismissed. FAILURE TO FULLY COMPLY WITH THIS ORDER WILL BE DEEMED  
21 SUFFICIENT GROUNDS TO DISMISS THE ACTION, WITHOUT FURTHER  
22 NOTICE.

23 IT IS SO ORDERED.

24 Dated: 5/3/17

25   
26 SAUNDRA BROWN ARMSTRONG  
27 Senior United States District Judge  
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