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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAMES MANNING,

Petitioner,

vs.

JOSEPH RAUCHFASS, *et al.*,

Respondents.

Case No. 2:15-cv-00390-GMN-NJK

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. On March 25, 2016, the Court entered an order requiring petitioner to file an amended habeas petition using the Court's approved form within thirty days. (ECF No. 4). The thirty-day period has now expired, and petitioner has not paid the filing fee or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "in the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal of a case." *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. *See, e.g. Pagtalunan v. Galaza*, 291 P.3d 639, 643 (9th Cir. 2002) (dismissal of habeas corpus petition with prejudice for failure to prosecute action and failure to comply with a court order); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance with

1 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for failure to
2 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41
3 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep
4 court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)
5 (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th
6 Cir. 1986) (dismissal for failure to lack of prosecution and failure to comply with local rules).

7 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
8 order, or failure to comply with local rules, the court must consider several factors: (1) the public’s
9 interest in expeditious resolution of litigation; (2) the court’s need to manage its docket; (3) the risk
10 of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits;
11 and (5) the availability of less drastic alternatives. *Pagtalunan*, 291 F.3d at 642; *Thompson*, 782
12 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-
13 61; *Ghazali*, 46 F.3d at 53.

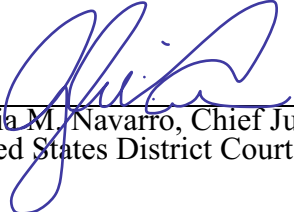
14 The Court finds that the first two factors, the public’s interest in expeditiously resolving this
15 litigation and the Court’s interest in managing the docket, weigh in favor of dismissal. The third
16 factor, risk of prejudice to respondents, also weighs in favor of dismissal, since a presumption of
17 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
18 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
19 factor – public policy favoring disposition of cases on their merits – is greatly outweighed by the
20 factors in favor of dismissal discussed herein. Finally, a court’s warning to a party that his failure to
21 obey the court’s order will result in dismissal satisfies the “consideration of alternatives”
22 requirement. *Pagtalunan*, 291 F.3d at 643; *Ferdik v. Bonzelet*, 963 F.2d at 1262; *Malone*, 833 at
23 132-33; *Henderson*, 779 F.2d at 1424. The Court’s order requiring petitioner to file an amended
24 petition within thirty days expressly stated: “If petitioner fails to comply with this directive, this
25 action will be dismissed.” (ECF No. 4, at p. 3). Thus, petitioner had adequate warning that
26 dismissal would result from noncompliance with the Court’s order.

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IT IS THEREFORE ORDERED that this action is **DISMISSED WITH PREJUDICE** based on petitioner's failure to file an amended petition in compliance with this Court's order of March 25, 2016.

IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment accordingly.

Dated this 28 day of June, 2016.



Gloria M. Navarro, Chief Judge
United States District Court