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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

RAUL FIGUEROA SILVA,	)	NO. CV 14-6105-MWF(E)
	)	
Petitioner,	)	
	)	
v.	)	REPORT AND RECOMMENDATION OF
	)	
DAVE DAVEY, Warden,	)	UNITED STATES MAGISTRATE JUDGE
	)	
	)	
Respondent.	)	
_____	)	

This Report and Recommendation is submitted to the Honorable Michael W. Fitzgerald, United States District Judge, pursuant to 28 U.S.C. section 636 and General Order 05-07 of the United States District Court for the Central District of California.

**PROCEEDINGS**

Petitioner filed a "First Amended Petition for Writ of Habeas Corpus by a Person in State Custody" on September 8, 2014. Respondent filed an Answer on January 7, 2015. Petitioner failed to file a Reply to the Answer within the allotted time.

1 On February 3, 2015, the Magistrate Judge ordered that Petitioner  
2 file a Reply to the Answer within twenty (20) days of February 3,  
3 2015. The Magistrate Judge cautioned Petitioner that failure to do so  
4 "may result in the denial and dismissal of the Petition."  
5 Nevertheless, Petitioner again failed to file a Reply to the Answer  
6 within the allotted time.

7  
8 **DISCUSSION**  
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10 The First Amended Petition should be denied and dismissed without  
11 prejudice. Petitioner has failed to file a timely Reply, despite a  
12 court order that he do so. The Court has inherent power to achieve  
13 the orderly and expeditious disposition of cases by dismissing actions  
14 for failure to prosecute. Link v. Wabash R.R., 370 U.S. 626, 629-30  
15 (1962). The Court has considered the factors recited in Ferdik v.  
16 Bonzelet, 963 F.2d 1258, 1260-62 (9th Cir.), cert. denied, 506 U.S.  
17 915 (1992), and has concluded that dismissal without prejudice is  
18 appropriate. In particular, any less drastic alternative would not be  
19 effective under the circumstances of this case.

20  
21 **RECOMMENDATION**  
22

23 For all of the foregoing reasons, IT IS RECOMMENDED that the  
24 Court issue an Order: (1) accepting and adopting this Report and

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1 Recommendation; and (2) directing that Judgment be entered denying and  
2 dismissing the First Amended Petition without prejudice.

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4 DATED: March 2, 2015.

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6 \_\_\_\_\_/s/\_\_\_\_\_  
7 CHARLES F. EICK  
8 UNITED STATES MAGISTRATE JUDGE  
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1 **NOTICE**

2 Reports and Recommendations are not appealable to the Court of  
3 Appeals, but may be subject to the right of any party to file  
4 objections as provided in the Local Rules Governing the Duties of  
5 Magistrate Judges and review by the District Judge whose initials  
6 appear in the docket number. No notice of appeal pursuant to the  
7 Federal Rules of Appellate Procedure should be filed until entry of  
8 the judgment of the District Court.

9 If the District Judge enters judgment adverse to Petitioner, the  
10 District Judge will, at the same time, issue or deny a certificate of  
11 appealability. Within twenty (20) days of the filing of this Report  
12 and Recommendation, the parties may file written arguments regarding  
13 whether a certificate of appealability should issue.

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