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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THOMAS RESENDEZ,)	NO. CV 16-8611-AG(E)
)	
Petitioner,)	
)	
v.)	REPORT AND RECOMMENDATION OF
)	
JOHN SUTTON, WARDEN,)	UNITED STATES MAGISTRATE JUDGE
)	
)	
Respondent.)	
_____)	

This Report and Recommendation is submitted to the Honorable Andrew J. Guilford, 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 "Petition for Writ of Habeas Corpus by a Person in State Custody" on November 18, 2016. Respondent filed an Answer on February 13, 2017. Petitioner failed to file a Reply to the Answer within the allotted time.

1 On March 10, 2017, the Magistrate Judge ordered that Petitioner
2 file a Reply to the Answer within twenty (20) days of March 10, 2017.
3 The Magistrate Judge cautioned Petitioner that failure to do so "may
4 result in the denial and dismissal of the Petition." Nevertheless,
5 Petitioner again failed to file a Reply to the Answer within the
6 allotted time.

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8 **DISCUSSION**
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10 The Petition should be denied and dismissed without prejudice.
11 Petitioner has failed to file a timely Reply, despite a court order
12 that he do so. The Court has inherent power to achieve the orderly
13 and expeditious disposition of cases by dismissing actions for failure
14 to prosecute. Link v. Wabash R.R., 370 U.S. 626, 629-30 (1962). The
15 Court has considered the factors recited in Ferdik v. Bonzelet, 963
16 F.2d 1258, 1260-62 (9th Cir.), cert. denied, 506 U.S. 915 (1992), and
17 has concluded that dismissal without prejudice is appropriate. In
18 particular, any less drastic alternative would not be effective under
19 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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26 ///

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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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