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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

KENNETH JAH'MALL JOHNSON,)	NO. ED CV 11-368-RGK(E)
)	
Petitioner,)	
)	
v.)	REPORT AND RECOMMENDATION OF
)	
SECRETARY OF CALIF. DEPT. OF)	UNITED STATES MAGISTRATE JUDGE
CORR. & REHAB (CDCR), et al.,)	
)	
Respondent.)	
)	
)	

This Report and Recommendation is submitted to the Honorable R. Gary Klausner, 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 March 10, 2011. Respondent filed a Motion to Dismiss on March 28, 2011.

1 The Magistrate Judge ordered that Petitioner file opposition to
2 the motion within thirty days of March 29, 2011. The Magistrate Judge
3 cautioned: "Failure to file timely opposition to the motion may
4 result in denial and dismissal of the Petition."
5

6 Petitioner failed to file an opposition within the allotted time.
7 Because of possible service problems, the Magistrate Judge
8 subsequently extended Petitioner's deadline to June 15, 2011, but
9 Petitioner again failed to file opposition within the allotted time.
10

11 **DISCUSSION**
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13 The Petition should be denied and dismissed without prejudice for
14 failure to prosecute. Petitioner has failed to file timely opposition
15 to a potentially dispositive motion, despite a Court Order that
16 Petitioner do so. The Court has inherent power to achieve the orderly
17 and expeditious disposition of cases by dismissing actions for failure
18 to prosecute. Link v. Wabash R.R., 370 U.S. 626, 629-30 (1962); see
19 Fed. R. Civ. P. 41(b).

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RECOMMENDATION

For all of the foregoing reasons, IT IS RECOMMENDED that the Court issue an Order: (1) approving and adopting this Report and Recommendation; and (2) directing that Judgment be entered denying and dismissing the Petition without prejudice.

DATED: June 17, 2011.

_____/s/_____
CHARLES F. EICK
UNITED STATES MAGISTRATE JUDGE

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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