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

JAMES G. MILLER,	)	NO. ED CV 17-2482-AG(E)
	)	
Petitioner,	)	
	)	
v.	)	REPORT AND RECOMMENDATION OF
	)	
SCOTT KERNAN, Secretary CDC&R,	)	UNITED STATES MAGISTRATE JUDGE
et al.,	)	
	)	
Respondents.	)	
	)	

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This Report and Recommendation is submitted to the Honorable George H. Wu, 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**

On December 12, 2017, Petitioner filed a "Petition for Writ of Habeas Corpus." On December 19, 2017, the Magistrate Judge filed an "Order to Show Cause" ("the OSC"). The OSC ordered that Petitioner "show cause in writing, within fourteen (14) days of the date of this

1 Order, why the Petition should not be denied and dismissed as moot."  
2 The OSC cautioned Petitioner that "[f]ailure to file a timely response  
3 to this Order to Show Cause may result in the denial and dismissal of  
4 the Petition." Nevertheless, Petitioner failed to file a timely  
5 response to the OSC.

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

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

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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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