

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RONNIE EARL HOWELL,

1:11-cv-01616-LJO-DLB (HC)

Petitioner,

FINDINGS AND RECOMMENDATION  
RECOMMENDING DISMISSAL OF  
PETITION

v.

[Doc. 8]

KAMALA D. HARRIS,

Respondent.

Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

Petitioner filed the instant petition for writ of habeas corpus on September 23, 2011. On October 17, 2011, the Court issued an order to show cause why the petition should not be dismissed for lack of jurisdiction and an amended petition was due within thirty days. Petitioner has failed to respond to the Court’s order.

Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, the Court may dismiss a petition if the plaintiff fails to prosecute or to comply with a court order and such dismissal “operates as an adjudication on the merits.” The Court’s October 17, 2011, order specifically advised Petitioner that the petition would be dismissed for the failure to comply with the order. (ECF No. 8.)

Accordingly, the Court **HEREBY RECOMMENDS** that this action be dismissed. This Findings and Recommendation is submitted to the United States District Court Judge assigned to

1 the case pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 72-304 of the Local  
2 Rules of Practice for the United States District Court, Eastern District of California. Within  
3 thirty (30) days after being served with a copy, any party may file written objections with the  
4 court and serve a copy on all parties. Such a document should be captioned “Objections to  
5 Magistrate Judge’s Findings and Recommendations.” Replies to the objections shall be served  
6 and filed within ten (10) court days (plus three days if served by mail) after service of the  
7 objections. The Court will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C. §  
8 636 (b)(1)(C). The parties are advised that failure to file objections within the specified time  
9 may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th  
10 Cir. 1991).

11  
12  
13 IT IS SO ORDERED.

14 **Dated: November 29, 2011**

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE