

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

BRANDEN DOYLE COTTON,  
  
                    Petitioner,  
  
v.  
  
THE PEOPLE,  
  
                    Respondents.

Case No. 1:13-cv-00977-SKO-HC  
  
ORDER TO PETITIONER TO SIGN AND RETURN THE CONSENT OR DECLINE FORM WITHIN THIRTY (30) DAYS OF SERVICE, OR FACE DISMISSAL OF THE ACTION WITHOUT PREJUDICE FOR PETITIONER'S FAILURE TO COMPLY WITH A COURT ORDER (DOCS. 2, 4)  
  
ORDER TO THE CLERK TO SEND TO PETITIONER WITH THIS ORDER ANOTHER ORDER RE: CONSENT OR REQUEST FOR REASSIGNMENT  
  
**PETITIONER'S DEADLINE:**  
**THIRTY (30) DAYS AFTER THE DATE OF SERVICE OF THIS ORDER**

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b) (1) and Local Rules 302 and 303. Pending before the Court is the petition, which was filed on June 26, 2013.

I. Background

Petitioner filed his petition on June 26, 2013.

1 On June 26, 2013, an order issued from this Court to Petitioner  
2 to complete and return to the Court within thirty (30) days a form  
3 indicating whether Petitioner consented or declined to the  
4 jurisdiction of the Magistrate Judge to conduct all further  
5 proceedings in this case. (Doc. 2-1.) On the same date, the order  
6 was served by mail on Petitioner at the address listed in the  
7 docket. Over thirty days passed without Petitioner's responding to  
8 the Court's order as directed.

9 On August 6, 2013, this Court issued another order that  
10 Petitioner complete and return to the Court within thirty (30) days  
11 a form indicating whether or not Petitioner consented or declined to  
12 the jurisdiction of the Magistrate Judge to conduct all further  
13 proceedings in this case. (Doc. 4.) On the same date, the order  
14 was served by mail on Petitioner at the address listed in the  
15 docket. Over thirty (30) days have passed and Petitioner did not  
16 respond to the Court's order as directed.

17 Both orders informed Petitioner that the form must be completed  
18 and returned regardless of the choice exercised by any other party.  
19 (Doc. 2-1 at 1; doc. 4.)

20 II. Order to Complete Form or Suffer Dismissal of the  
21 Proceeding

22 Petitioner has failed to comply with the Court's repeated  
23 orders to complete and sign a form concerning consent or request for  
24 reassignment.

25 A failure to comply with an order of the Court may result in  
26 sanctions, including dismissal, pursuant to the inherent power of  
27 the Court, federal statute, and the Federal Rules of Civil  
28 Procedure. Fed. R. Civ. P. 41(b), 11; Local Rule 110; Chambers v.

1 NASCO, Inc., 501 U.S. 31, 42-43 (1991).

2       Petitioner is being given one more opportunity to complete and  
3 sign one section of the consent form and to return the form to the  
4 Court. Petitioner is INFORMED that if he fails to complete, sign,  
5 and return the form within thirty days after service of this order,  
6 this case will be dismissed without prejudice for Petitioner's  
7 failure to comply with an order of the Court.

8       Accordingly, it is hereby ORDERED that Petitioner is GRANTED  
9 thirty (30) days from the date of service of this order to complete,  
10 sign, and return the consent or decline portion of the Court's order  
11 re: consent or request for reassignment.

12       The Clerk is DIRECTED to send to Petitioner with this order  
13 another order re: consent or request for reassignment.

14  
15  
16 IT IS SO ORDERED.

17 Dated: September 25, 2013

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE