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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAIME I. ESTRADA,
Petitioner,
v.
MARTIN BITER,
Respondent.

Case No. 1:14-cv-00679-DAD-EPG-HC
ORDER REGARDING PETITIONER’S
FAILURE TO FILE RESPONSE TO
RESPONDENT’S MOTION TO VACATE
EVIDENTIARY HEARING

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. An evidentiary hearing is scheduled for May 5, 2017.

On March 22, 2017, Respondent filed a motion to vacate the evidentiary hearing. The motion to vacate was noticed for hearing on April 28, 2017. (ECF No. 68). On March 23, 2017, the Court moved the hearing on the motion to vacate to April 25, 2017. (ECF No. 69). Local Rule 230 provides that opposition to the granting of the motion shall be filed not less than fourteen days preceding the hearing date. L.R. 230(c). Accordingly, any opposition to Respondent’s motion to vacate should have been filed by April 11, 2017.

The motion to vacate states that Petitioner’s counsel indicated she would not be available until April 12 and would need until April 19 or after to file a response. (ECF No. 68 at 2). However, Petitioner failed to request any extension from the Court, and the parties did not file a stipulation extending the time for Petitioner to respond.

1 Based on the foregoing, IT IS HEREBY ORDERED THAT:

- 2 1. No later than April 19, 2017, Petitioner shall inform the Court why Petitioner failed to
3 file a timely response to the motion to vacate and why Petitioner failed to request the
4 necessary extension of time from the Court.
- 5 2. No later than April 19, 2017, Petitioner shall file a response to the motion to vacate. If
6 Petitioner fails to file an opposition, Petitioner will not be entitled to be heard in
7 opposition to the motion at the hearing. L.R. 230(c).
- 8 3. No later than April 21, 2017, Respondent may file a reply to Petitioner's response to the
9 motion to vacate.

10 IT IS SO ORDERED.

11 Dated: April 17, 2017

12 /s/ Eric P. Gray
13 UNITED STATES MAGISTRATE JUDGE