

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

STEPHEN DANIEL BLYMAN,

 Petitioner,

 v.

DANIEL PARAMO, Warden,

 Respondent.

No. 1:14-cv-00836-DAD-SKO HC

**FINDINGS AND RECOMMENDATION
THAT THE PETITION BE DISMISSED
FOR FAILURE TO PROSECUTE**

(Doc. 40)

Petitioner Stephen Daniel Blyman is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 1, 2016, this Court lifted the order of stay and abeyance in the above-captioned case and directed Petitioner to file an amended petition including the newly exhausted claims by July 29, 2016. Petitioner did not file an amended petition. As a result, on August 10, 2016, the Magistrate Judge issued an order to show cause why the petition should not be dismissed for failure to prosecute. Although Petitioner was required to respond to the order within 15 days, Petitioner has filed neither a response nor an amended petition.

The Court has discretion to impose any and all sanctions authorized by statute or rule or within the inherent power of the Court, including dismissing the action, based on a petitioner's failure to comply with a court order. F.R.Civ.P. 11; Local R. 110.

///

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

Conclusion and Recommendation

Based on the foregoing, the undersigned hereby RECOMMENDS that the Court dismiss the petition for failure to prosecute.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C § 636(b)(1). Within **thirty (30) days** after being served with these Findings and Recommendations, Petitioner may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file objections within the specified time may constitute waiver of the right to appeal the District Court's order. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 ((9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991))).

IT IS SO ORDERED.

Dated: September 2, 2016

/s/ Sheila K. Overt
UNITED STATES MAGISTRATE JUDGE