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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	HAAMID DARCUIEL,) Case No.: 1:14-cv-01664-JLT
12	Petitioner,) ORDER DENYING PETITIONER'S MOTION
13	v.) FOR LIBERAL CONSTRUCTION (Doc. 13)
14	FEDERAL BUREAU OF PRISON)
15	ATWATER, Respondent.)
16)
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18	Petitioner is a federal prisoner proceeding with a petition for writ of habeas corpus pursuant to	
19	28 U.S.C. § 2241. He filed his filed on October 24, 2014. (Doc. 1). On November 6, 2014, the Court	
20	ordered Respondent to file a response to the petition within sixty days. (Doc. 5). Within that initial	
21	sixty-day period, Respondent requested a thirty-day extension that was granted on January 13, 2015.	
22	(Docs. 11; 12). Because the first day of that thirty-day period was a Saturday and because the first	
23	Monday was a federal holiday, the Clerk of the Court correctly calculated that the response was due on	
24	February 17, 2015. Respondent timely filed his response on that date. (Doc. 14).	
25	On January 23, 2015, Petitioner filed the instant motion, challenging Respondent's purported	
26	failure to timely file the response and asking therefore for habeas relief. (Doc. 13). As discussed	
27	above, Respondent's response was timely filed. Thus, no sanctions are warranted. However, even if	
28	the response was untimely, the sanction Petitio	oner seeks, i.e., granting habeas relief, is not within the

Court's habeas jurisdiction.

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2 Quite simply, there is no legal basis whatsoever for entry of a default judgment in habeas 3 corpus cases based upon a violation of a court-imposed deadline or any other reason. Title 28 U.S.C. \$ 2241(c)(3) provides that the writ of habeas corpus shall not extend to a prisoner unless he is "in 4 5 custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2243 provides that "the court shall summarily hear and determine the facts, and dispose of the matter as law 6 7 and justice require." 28 U.S.C. § 2243. In Townsend v. Sam, 372 U.S. 293, 312 (1963), the Supreme Court stated as follows: "State prisoners are entitled to relief on federal habeas corpus only upon 8 proving that their detention violates the fundamental liberties of the person, safeguarded against state 9 action by the Federal Constitution." 10 Thus, the burden to show that he is in custody in violation of the Constitution of the United 11 States *is on Petitioner*. The failure of State officials to file a timely response does not relieve 12 Petitioner of his burden of proof. Default judgments in habeas corpus proceedings are not 13 available as a procedure to empty State prisons. See, e.g., Gordon v. Duran, 895 F.2d 610, 612 (9th 14 Cir.1990); see also Bleitner v. Welborn, 15 F.3d 652, 653 (7th Cir. 1994) (respondent's failure to 15 timely respond to petition does not entitle petitioner to default); United States ex rel. Mattox v. Scott, 16 507 F.2d 919, 924 (7th Cir. 1974)(holding that default judgment is not an appropriate remedy for a 17 state's failure to answer a habeas corpus petition); Bermudez v. Reid, 733 F.2d 18 (2nd Cir. 1984). 18 19 ORDER 20 For the foregoing reasons, the Court **ORDERS** that Petitioner's motion for liberal construction 21 (Doc. 13), is DENIED. 22 IT IS SO ORDERED. 23 24 /s/ Jennifer L. Thurston UNITED STATES MAGISTRATE JUDGE Dated: August 26, 2015 25 26 27 28 2