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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VESTER LEE PATTERSON,
Petitioner,

v.

STU SHERMAN, Warden,
Respondent.

Case No. 1:15-cv-00053 LJO MJS (HC)
**ORDER DENYING PETITIONER'S MOTION
TO VOLUNTARILY DISMISS PETITION**
[Doc. 28]

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On August 13, 2015, Petitioner filed a motion to dismiss the action without prejudice. (Mot., ECF No. 28.)

Under Fed. Rule of Civ. Proc. 41(a)(2), Petitioner may voluntarily dismiss the action if approved by the Court. (See Rule 12, Rules Governing Section 2254 Cases, “The Federal Rules of Civil Procedure, to the extent that they are not inconsistent with any statutory provisions or these rules, may be applied to a proceeding under these rules.”)

On March 16, 2015, Respondent filed a motion to dismiss the petition as untimely, and on April 29, 2015 the Magistrate Judge issued findings and recommended that the motion be granted and the matter be dismissed. (See ECF No. 13, 20.) Significant effort

1 has been spent by the responding party and the Court to resolve the present action.
2 Furthermore, Petitioner's dismissal of this action, even if granted, would not improve his
3 ability to overcome the timeliness bar which led to dismissal. The interests of justice
4 dictate that the motion to voluntarily dismiss the petition be DENIED.

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6 IT IS SO ORDERED.

7 Dated: September 15, 2015 */s/ Michael J. Seng*
8 UNITED STATES MAGISTRATE JUDGE
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