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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CASIMIRO ESPARZA,

Petitioner,

v.

STU SHERMAN, Warden,

Respondent.

Case No. 1:17-cv-00651-DAD-SKO HC

FINDINGS AND RECOMMENDATIONS
RECOMMENDING THAT THE
COURT DISMISS PETITION
FOR FAILURE TO PROSECUTE

(Doc. 13)

Petitioner Casimiro Esparza is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 25, 2017, the Court dismissed the petition with leave to amend within 30 days. Although more than 30 days have now passed, Petitioner has not filed an amended petition.

III. Conclusion and Recommendation

Accordingly, 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

1 constitute waiver of the right to appeal the District Court's order. *Wilkerson v. Wheeler*, 772 F.3d
2 834, 839 ((9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991))). In lieu of
3 filing objections, Petitioner may file the amended petition within thirty days, and the undersigned
4 will withdraw these findings and recommendations.

5
6 IT IS SO ORDERED.

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8 Dated: July 5, 2017

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE