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8 **UNITED STATES DISTRICT COURT**  
9 **EASTERN DISTRICT OF CALIFORNIA**  
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11 ALEJANDRO SANCHEZ,

12 Petitioner,

13 v.

14 M. E. SPEARMAN,

15 Respondent.

Case No. 1:17-cv-00723-AWI-JLT-HC

ORDER VACATING FINDINGS AND  
RECOMMENDATION OF APRIL 3, 2018

FINDINGS AND RECOMMENDATION TO  
SUMMARILY DISMISS PETITION FOR  
WRIT OF HABEAS CORPUS

[21-DAY OBJECTION DEADLINE]

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17 On May 15, 2017, Petitioner filed a federal petition for writ of habeas corpus. On  
18 September 7, 2017, the Court issued an order summarily dismissing the petition because the  
19 claims clearly lacked merit. (Doc. 14.) Judgment was entered on the same date and the case was  
20 terminated. (Doc. 15.)

21 Petitioner then appealed to the Ninth Circuit Court of Appeals. On March 30, 2018, the  
22 Ninth Circuit, citing the recent decision in Williams v. King, 875 F.3d 500, 503-04 (9th Cir.  
23 2017), determined that all parties, including unserved defendants, had not consented to the  
24 jurisdiction of the magistrate judge pursuant to 28 U.S.C. § 636(c)(1). (Doc. 20.) The Ninth  
25 Circuit vacated the judgment and remanded the case to the District Court. (Doc. 20.) Formal  
26 mandate of the Court issued on April 23, 2018. (Doc. 22.)

27 The Court has reviewed the petition on remand. For the same reasons stated in the order  
28 of September 7, 2017, the Court will recommend the petition be **SUMMARILY DISMISSED**

1 with prejudice.

2 **ORDER**

3 The Findings and Recommendation issued April 3, 2018, is hereby VACATED.<sup>1</sup> (Doc.  
4 21.)

5 **RECOMMENDATION**

6 The Court RECOMMENDS that the petition be SUMMARILY DISMISSED with  
7 prejudice.

8 This Findings and Recommendation is submitted to the United States District Court  
9 Judge assigned to this case, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B) and  
10 Rule 304 of the Local Rules of Practice for the United States District Court, Eastern District of  
11 California. Within twenty-one days after being served with a copy, Petitioner may file written  
12 objections with the Court. Such a document should be captioned “Objections to Magistrate  
13 Judge’s Findings and Recommendation.” The Court will then review the Magistrate Judge’s  
14 ruling pursuant to 28 U.S.C. § 636 (b)(1)(C). Petitioner is advised that failure to file objections  
15 within the specified time may waive the right to appeal the District Court’s order. Martinez v.  
16 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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18 IT IS SO ORDERED.

19 Dated: May 2, 2018

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE

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28 <sup>1</sup> The Findings and Recommendation recommended that the petition be dismissed for lack of jurisdiction pursuant to the Court’s order of August 23, 2017; however, Petitioner named a proper respondent on August 28, 2017, and the order was vacated. (Docs. 10, 12, 13.)