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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES D. CHAVEZ,

 Petitioner,

 v.

WARDEN,

 Respondent.

No. 1:17-cv-01202-DAD-EPG

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING
RESPONDENT’S MOTION TO DISMISS

(Doc. Nos. 18, 19)

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 14, 2018, the assigned magistrate judge issued findings and recommendations, recommending that respondent’s motion to dismiss be granted petitioner be granted leave to convert his habeas petition to a civil rights action under 42 U.S.C. § 1983. (Doc. No. 19.) The findings and recommendations were served the parties and contained notice that any objections thereto were to be filed within thirty days of the date of service of that order. To date, no objections to the findings and recommendations have been filed, and the time for doing so has passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, the court holds the findings and recommendation to be supported by the record and proper analysis.

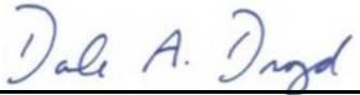
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Accordingly,

1. The findings and recommendations issued on June 14, 2018 (Doc. No. 19) are adopted in full;
2. Respondent's motion to dismiss (Doc. No. 18) is granted;
3. Within twenty-one (21) days from the date of service of this order, petitioner shall notify the court whether he wishes to:
 - a. convert his habeas petition to a § 1983 civil rights action, which would require petitioner to pay the full \$350 filing fee by way of deductions from income to petitioner's trust account even if granted *in forma pauperis* status; OR
 - b. voluntarily dismiss the instant action without prejudice to refiling his claims in a § 1983 action, subject to any statute of limitations issues; and
4. If petitioner fails to notify the court, the instant habeas action will be dismissed without prejudice to petitioner refiling his claims in a new § 1983 action.

IT IS SO ORDERED.

Dated: October 22, 2018


UNITED STATES DISTRICT JUDGE