UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MANUEL ALVAREZ, Petitioner, v. FEDERAL CORRECTIONAL INSTITUTE, Respondent.	No. 1:17-cv-01377-SKO HC **FINDINGS AND RECOMMENDATION THAT THE COURT DISMISS THE CASE FOR FAILURE TO PROSECUTE** **COURT CLERK TO ASSIGN DISTRICT JUDGE** **(Doc. 1)**

Petitioner, Manuel Alvarez, is a federal prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On December 13, 2017, the copy of an order mailed to Petitioner was returned to the Clerk marked "undeliverable, RTS-Refused."

Local Rule 183 provides:

> A party appearing *in propria persona* shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff *in propria persona* by the Clerk is returned by the U.S. Postal Service, and if such Plaintiff fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice for failure to prosecute.

Although more than sixty-three (63) days have elapsed from the date the order mailed to Petitioner was returned, Petitioner has failed to advise the Court of his current address or contact

the Court in any other way. The Court has discretion to impose any and all sanctions authorized by statute or rule or within the inherent power of the Court, including dismissing the motion, based on a petitioner's failure to comply with a court rule. F.R.Civ.P. 11; Local R. 110.

Conclusion and Recommendation

Based on the foregoing, the undersigned RECOMMENDS that as a result of Petitioner's failure to prosecute the case, the Court dismiss the petition for writ of habeas corpus in the above-captioned action without prejudice.

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 constitute waiver of the right to appeal the District Court's order. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

The Court Clerk is hereby directed to assign a district judge to this action.

IT IS SO ORDERED.

Dated: **February 21, 2018**

/s/ *Sheila K. Oberto*
UNITED STATES MAGISTRATE JUDGE