UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GEORGE RILEY, III,

Petitioner,

v.

ANDRE MATEVOUSIAN, Warden,

Respondent.

No. 1:18-cv-00323 SKO HC

FINDINGS AND RECOMMENDATION THAT THE COURT DISMISS THE CASE FOR FAILURE TO PROSECUTE

COURT CLERK TO ASSIGN DISTRICT JUDGE

(Doc. 1)

Petitioner, George Riley, III, is a federal prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On March 7, 2018, case documents and a consent form mailed to Petitioner were returned to the Clerk marked "Undeliverable, Not Here."

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.

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Although more than sixty-three (63) days have elapsed from the date of the return of the documents mailed to Petitioner, 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. Fed. R. Civ. P. 11; Local R. 110.

Conclusion and Recommendation

Accordingly, the undersigned RECOMMENDS that as a result of Petitioner's failure to prosecute the case, the Court dismiss without prejudice the petition in the above-captioned action.

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: **June 7, 2018**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE