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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VESTER L. PATTERSON,
Petitioner,
v.
WILLIAM J. SULLIVAN,
Respondent.

No. 1:18-cv-00361-DAD-EPG

ORDER DENYING PETITIONER’S MOTION
FOR RECONSIDERATION OF ORDER
DENYING EMERGENCY MOTION AND
MOTION TO EXPEDITE

(Doc. No. 20)

Petitioner is a state prisoner proceeding *pro se* in a habeas corpus action pursuant to 28 U.S.C. § 2254.

On May 18, 2018, petitioner filed an emergency motion and motion to expedite these federal habeas proceedings based on his argument that he has already served the statutorily prescribed maximum punishment for his crime of conviction. (Doc. No. 12.) On May 21, 2018, the assigned magistrate judge denied the motions, advising petitioner that “[t]he Court is aware of Petitioner’s pending petition and is awaiting Respondent’s response to the petition” and “acts to resolve all pending cases in the most efficient manner possible.” (Doc. No. 13 at 1.) On June 4, 2018, petitioner moved for the undersigned to reconsider the magistrate judge’s May 21, 2018 order. (Doc. No. 20.)

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1 The court may only set aside those portions of a magistrate judge's order that are either
2 clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); *see also Grimes v. City and County of*
3 *San Francisco*, 951 F.2d 236, 240 (9th Cir. 1991) (non-dispositive pretrial orders are reviewed for
4 clear error under Rule 72(a)). A magistrate judge's factual findings are "clearly erroneous" when
5 the district court is left with the definite and firm conviction that a mistake has been committed.
6 *Sec. Farms v. Int'l Bhd. of Teamsters*, 124 F.3d 999, 1014 (9th Cir. 1997). "An order is contrary
7 to law when it fails to apply or misapplies relevant statutes, case law, or rules of procedure."
8 *Jadwin v. County of Kern*, 767 F. Supp. 2d 1069, 1110–11 (E.D. Cal. 2011) (citing *DeFazio v.*
9 *Wallis*, 459 F. Supp. 2d 159, 163 (E.D.N.Y. 2006)).

10 The court has reviewed petitioner's motions and the magistrate judge's order in response
11 thereto and concludes that the magistrate judge's denial of petitioner's motion to expedite the
12 proceedings was not clearly erroneous or contrary to law. Moreover, it does not appear that an
13 order granting the motion to expedite would have any effect. Petitioner's habeas petition was
14 received by the court on Thursday, March 15, 2018. (Doc. No. 1.) On March 20, 2018, the
15 assigned magistrate judge ordered respondent to file a response to the petition. (Doc. No. 4.)
16 Petitioner's motion to expedite was received by the court on May 18, 2018. (Doc. No. 12.)
17 Respondent's response to the petition—a motion to dismiss—was filed the following Monday,
18 May 21, 2018. (Doc. No. 14.)

19 Accordingly, petitioner's motion for reconsideration (Doc. No. 20) is denied.

20 IT IS SO ORDERED.

21 Dated: August 31, 2018

22 
UNITED STATES DISTRICT JUDGE