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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 JUAN MANUEL MONTENEGRO FLORES,

12 Petitioner,

13 v.

14 SCOTT KERNAN,

15 Respondent.

Case No. 1:18-cv-00707-LJO-SAB-HC

ORDER ADOPTING FINDINGS AND
RECOMMENDATION, GRANTING
RESPONDENT'S MOTION TO DISMISS,
AND DISMISSING PETITION FOR WRIT
OF HABEAS CORPUS WITH LEAVE TO
AMEND

(ECF Nos. 8, 14)

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17 Petitioner is proceeding pro se with a petition for writ of habeas corpus pursuant to 28
18 U.S.C. § 2254. On November 1, 2018, the Magistrate Judge issued Findings and
19 Recommendation to grant Respondent's motion to dismiss and to dismiss the petition for writ of
20 habeas corpus with leave to amend. (ECF No. 14). This Findings and Recommendation was
21 served on the parties and contained notice that any objections were to be filed within thirty (30)
22 days of the date of service of that order. To date, the parties have filed no objections, and the
23 time for doing so has passed.

24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted
25 a de novo review of the matter. Having carefully reviewed the entire file, the Court concludes
26 that the Findings and Recommendation is supported by the record and proper analysis, and there
27 is no need to modify the Findings and Recommendation.

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1 Accordingly, IT IS HEREBY ORDERED that:

- 2 1. The Findings and Recommendation issued on November 1, 2018 (ECF No. 14) is
3 ADOPTED IN FULL;
- 4 2. Respondent's motion to dismiss (ECF No. 8) is GRANTED;
- 5 3. The petition for writ of habeas corpus (ECF No. 1) is DISMISSED with leave to
6 amend. Within **SIXTY (60) days** from the date of service of this order, Petitioner
7 may file an amended petition for writ of habeas corpus that is signed under penalty of
8 perjury; and
- 9 4. If Petitioner fails to file an amended petition, the instant habeas action will be
10 CLOSED.

11 IT IS SO ORDERED.

12 Dated: December 12, 2018

13 /s/ Lawrence J. O'Neill
14 UNITED STATES CHIEF DISTRICT JUDGE