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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARONTA T. LEWIS,

Petitioner,

No. CIV S-08-2509 EFB P

vs.

T. FELKER,

Respondent.

ORDER AND  
FINDINGS AND RECOMMENDATIONS

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Petitioner is a state prisoner proceeding without counsel on a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On November 20, 2009, the court dismissed the petition with leave to amend. The dismissal order explained the petition’s deficiencies, gave petitioner 30 days to file an amended petition correcting those deficiencies, and warned petitioner that failure to file an amended petition would result in a recommendation that this action be dismissed.

The 30-day period has expired and petitioner has not filed an amended petition or otherwise responded to the court’s order.


Accordingly, it is hereby ORDERED that the Clerk randomly assign a United States District Judge to this action.

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1 Further, it is RECOMMENDED that this action be dismissed without prejudice.

2 These findings and recommendations are submitted to the United States District Judge  
3 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one  
4 days after being served with these findings and recommendations, any party may file written  
5 objections with the court and serve a copy on all parties. Such a document should be captioned  
6 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections  
7 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*  
8 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In  
9 his objections petitioner may address whether a certificate of appealability should issue in the  
10 event he files an appeal of the judgment in this case. *See* Rule 11, Federal Rules Governing  
11 Section 2254 Cases (the district court must issue or deny a certificate of appealability when it  
12 enters a final order adverse to the applicant).

13 Dated: February 19, 2010.

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15 EDMUND F. BRENNAN  
16 UNITED STATES MAGISTRATE JUDGE  
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