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

DAVID M. WALTON,

Petitioner,

No. CIV S-09-1384 LKK EFB P

vs.

SACRAMENTO DISTRICT COURT,

FINDINGS AND RECOMMENDATIONS

Respondent.

On May 19, 2009, petitioner filed a petition for writ of habeas corpus. *See* 28 U.S.C. § 2254. On December 21, 2009, the court dismissed the petition with leave to file an amended petition using the proper form and naming the proper respondent within thirty days. That order warned petitioner that failure to timely file an amended petition would result in a recommendation that this action be dismissed.

The thirty days have passed and petitioner has not filed an amended petition or otherwise responded to that order.

Accordingly, it is hereby RECOMMENDED that this action be dismissed. *See* Fed. R. Civ. P. 41(b); Rule 12, Rules Governing § 2254 Cases; L. R. 110.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days

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

10 Dated: March 4, 2010.

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12 EDMUND F. BRENNAN
13 UNITED STATES MAGISTRATE JUDGE
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