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

IGNACIO PENA

Petitioner,

No. CIV S-10-1336 KJM DAD (TEMP) P

vs.

GARY SWARTHOUT

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On December 10, 2011, respondent filed a motion to dismiss. Petitioner has not opposed the motion. Local Rule 230(c) requires a party to file an opposition or statement of non-opposition in response to a motion. Failure to oppose a motion to dismiss may be deemed a failure by petitioner to prosecute his case and result in dismissal under Federal Rule of Civil Procedure 41(b). Therefore plaintiff will have a final opportunity in which to file an opposition.

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1 IT IS THEREFORE ORDERED that petitioner has thirty days from the date of  
2 this order in which to file an opposition to the motion to dismiss or statement of non-opposition.  
3 DATED: July 8, 2011.

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7 DALE A. DROZD  
8 UNITED STATES MAGISTRATE JUDGE

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