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

CHRISTOPHER CERVANTES,

Petitioner,

No. 2:10-cv-2906 KJN P

vs.

FRANCISCO JACQUEZ, Warden,

Respondent.

ORDER

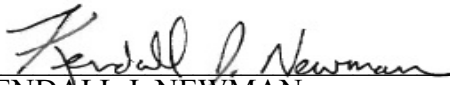
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Petitioner, a state prisoner proceeding without counsel with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has consented to proceed before the undersigned for all purposes. See 28 U.S.C. § 636(c). By order filed January 5, 2011, petitioner’s motion for stay and abeyance was denied, and petitioner’s first amended petition was dismissed, without prejudice, for failure to exhaust state remedies. Petitioner was granted leave to file a second amended petition within thirty days. Thirty days have now passed, and petitioner has failed to file a second amended petition, or otherwise respond to the court’s order.

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1 Accordingly, IT IS HEREBY ORDERED that this action is dismissed without
2 prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).¹

3 DATED: February 14, 2011

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5 
6 KENDALL J. NEWMAN
7 UNITED STATES MAGISTRATE JUDGE

8 cerv2906.fta

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23 _____
24 ¹ Petitioner is cautioned that the habeas corpus statute imposes a one year statute of
25 limitations for filing non-capital habeas corpus petitions in federal court. In most cases, the one
26 year period will start to run on the date on which the state court judgment became final by the
conclusion of direct review or the expiration of time for seeking direct review, although the
statute of limitations is tolled while a properly filed application for state post-conviction or other
collateral review is pending. 28 U.S.C. § 2244(d).