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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERTO HERRERA,
Petitioner,
v.
CONNIE GIPSON,
Respondents.

No. 2:12-cv-2982 TLN DAD P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s second motion for entry of default.

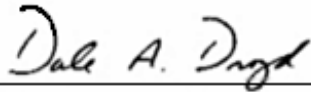
On July 11, 2014, the court denied petitioner’s prior motion for entry of default. It appears that petitioner did not have the benefit of the court’s order before filing this second motion for entry of default. However, as the court previously advised, respondent has timely filed a motion to dismiss the petition. Therefore, petitioner’s motion for entry of default based on respondent’s failure to file a responsive pleading is without merit. Moreover, for the same reasons discussed in the court’s July 11, 2014 order, the court will deny petitioner’s motion for appointment of counsel and motion for an evidentiary hearing. Finally, in the interest of justice, the court will grant petitioner thirty days from the date of service of this order to file an opposition to respondent’s motion to dismiss.

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Accordingly, IT IS HEREBY ORDERED that:

1. Petitioner's motion for entry of default (Doc. No. 25) is denied;
2. Petitioner's motion for appointment of counsel (Doc. No. 25) is denied;
3. Petitioner's motion for an evidentiary hearing (Doc. No. 25) is denied; and
4. Petitioner is granted thirty days from the date of service of this order to file an opposition to respondent's motion to dismiss.

Dated: July 17, 2014



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

DAD:9
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