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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

YOW MING YEH,  
Petitioner,  
v.  
JOHN DOE WARDEN,  
Respondent.

No. 2:13-cv-262-TLN-EFB P

FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding without counsel, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On July 3, 2013, respondent moved to dismiss the petition on the ground that the petition is untimely and that petitioner failed to exhaust available state judicial remedies. On August 15, 2013, the court informed petitioner of the requirements for filing an opposition to any motion to dismiss. That order gave petitioner 21 days to file an opposition or statement of non-opposition and warned him that failure to do so would result in a recommendation that this action be dismissed.

The 21 days have passed and petitioner has not filed an opposition or a statement of no opposition nor otherwise responded to the August 15, 2013 order.


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1           Accordingly, it is RECOMMENDED that this action be dismissed. Fed. R. Civ. P. 41(b);  
2 Rule 12, Rules Governing § 2254 Cases.

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

14 Dated: September 16, 2013.

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16 EDMUND F. BRENNAN  
17 UNITED STATES MAGISTRATE JUDGE  
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