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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SONG VANG,
Petitioner,
v.
R. GOWER,
Respondent.

No. 2:13-cv-1317 KJM CKD P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 24, 2013, respondent filed a motion to dismiss. On November 12, 2013, the court ordered petitioner to file a response to the motion within 30 days. Petitioner was warned that failure to file a response would result in a recommendation that this action be dismissed pursuant to rule 41(b) of the Federal Rules of Civil Procedure. The 30-day period has expired and petitioner has not filed a response to the pending motion to dismiss.

Accordingly, IT IS HEREBY RECOMMENDED that petitioner’s application for writ of habeas corpus be dismissed.

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 after being served with these findings and recommendations, any party may file written

1 objections with the court and serve a copy on all parties. Such a document should be captioned
2 “Objections to Magistrate Judge’s Findings and Recommendations.” In his objections petitioner
3 may address whether a certificate of appealability should issue in the event he files an appeal of
4 the judgment in this case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district
5 court must issue or deny a certificate of appealability when it enters a final order adverse to the
6 applicant). Any response to the objections shall be served and filed within fourteen days after
7 service of the objections. The parties are advised that failure to file objections within the
8 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
9 F.2d 1153 (9th Cir. 1991).

10 Dated: December 24, 2013



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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