

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL SARMIENTO,  
Petitioner,  
v.  
RICK HILL,  
Respondent.

No. 2:13-cv-1338 MCE AC P

FINDINGS & RECOMMENDATIONS

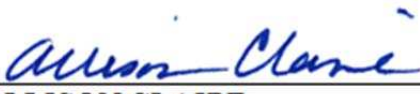
Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

By order filed May 5, 2017, the undersigned found that petitioner had failed to show cause why his petition should not be dismissed for lack of habeas jurisdiction; petitioner was given thirty days to file an amended complaint and convert this action to a civil rights action under 42 U.S.C. § 1983. ECF No. 29. Thirty days have now passed and petitioner has not filed an amended complaint or otherwise responded to the order. Accordingly, the undersigned will recommend that the petition be dismissed for lack of habeas jurisdiction as set forth in the May 5, 2017 order.

Accordingly, IT IS HEREBY RECOMMENDED that petitioner’s application for a writ of habeas corpus be dismissed for lack of jurisdiction for the reasons set forth in the court’s May 5, 2017 order (ECF No. 29).

1           These findings and recommendations are submitted to the United States District Judge  
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
3 after being served with these findings and recommendations, any party may file written  
4 objections with the court and serve a copy on all parties. Such a document should be captioned  
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the  
6 objections shall be filed and served within fourteen days after service of the objections. The  
7 parties are advised that failure to file objections within the specified time may waive the right to  
8 appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

9 DATED: June 21, 2017

10   
11 \_\_\_\_\_  
12 ALLISON CLAIRE  
13 UNITED STATES MAGISTRATE JUDGE  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28