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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

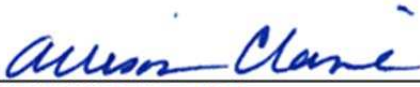
By order filed May 5, 2017, the undersigned found that petitioner had failed to show cause why his petition should not be dismissed for lack of habeas jurisdiction and he was given thirty days to file an amended complaint and convert this action to a civil rights action under 42 U.S.C. § 1983. ECF No. 29. After the thirty days had passed and petitioner failed to file an amended complaint or otherwise responded to the order, the undersigned issued findings and recommendations that recommended that the petition be dismissed for lack of jurisdiction. ECF No. 30. After the findings and recommendations were issued, petitioner filed an untimely motion for extension of time. ECF No. 31. Since petitioner demonstrated an intent to continue prosecuting his claim, the findings and recommendations were withdrawn and petitioner was given until July 19, 2017, to file an amended complaint. ECF No. 32. He was warned that any future motions for extension of time were to be filed before the deadline passed and that if the motion was late he had to explain why the motion was late. Id. Petitioner’s July 19, 2017

1 deadline has now passed and petitioner has once again failed to amend the complaint or otherwise
2 respond to the court's order. Accordingly, the undersigned will recommend that the petition be
3 dismissed for lack of habeas jurisdiction as set forth in the May 5, 2017 order.

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

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

15 DATED: September 8, 2017

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE
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