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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JULIO FATILUA MUAO,  
Petitioner,  
v.  
UNITED STATES OF AMERICA,  
Respondent.

No. 2:14-cv-267-TLN-EFB P

FINDINGS AND RECOMMENDATIONS

Petitioner is a federal prisoner proceeding pro se. On October 10, 2013 he filed a “motion for time credit due . . . under [18 U.S.C.] § 3585,” which the court construed as a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.<sup>1</sup> On January 29, 2014, the court ordered petitioner to, within 30 days, file an amended petition for a writ of habeas corpus and submit an affidavit in support of his request to proceed in forma pauperis or pay the appropriate filing fee. The time for acting has passed and petitioner has not complied with or otherwise responded to the court’s order.

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<sup>1</sup> The motion was originally filed in 2:07-cr-269-TLN-EFB. The January 29 order directed the Clerk to open a civil file for this action which was designated 2:14-cv-267-TLN-EFB.

1           Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without  
2 prejudice.

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.” Any reply to the objections  
8 shall be served and filed within fourteen days after service of the objections. Failure to file  
9 objections within the specified time may waive the right to appeal the District Court’s order.  
10 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.  
11 1991). In his objections petitioner may address whether a certificate of appealability should issue  
12 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section  
13 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a  
14 final order adverse to the applicant).

15 DATED: March 5, 2014.

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17 EDMUND F. BRENNAN  
18 UNITED STATES MAGISTRATE JUDGE  
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