1

2

3

4

5

6

7

8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11   THOMAS EDWARD DASILVA,   No. 2:14-cv-2138 MCE AC P

12   Petitioner,

13   v.   FINDINGS AND RECOMMENDATIONS

14   WARDEN OF PLEASANT VALLEY
      STATE PRISON,
15
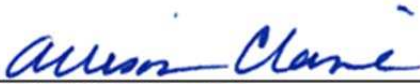   Respondent.
16

17

18   Petitioner is a state prisoner proceeding pro se with a habeas corpus petition filed pursuant

19   to 28 U.S.C. § 2254. On April 7, 2015, respondent filed a motion to dismiss the petition. ECF

20   No. 9. On May 19, 2015, petitioner was ordered to file and serve, within twenty-one days, an

21   opposition or statement of non-opposition to the pending motion. ECF No. 12. In the same

22   order, petitioner was informed that failure to file an opposition would result in a recommendation

23   that this action be dismissed without prejudice for failure to prosecute pursuant to Federal Rule of

24   Civil Procedure 41(b). Id. The twenty-one-day period has now expired, and petitioner has not

25   responded to the court's order.

26   For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be

27   dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

28   These findings and recommendations are submitted to the United States District Judge

                                            1

1 | assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days

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

3 | objections with the court and serve a copy on all parties. Such a document should be captioned

4 | "Objections to Magistrate Judge's Findings and Recommendations." Any response to the

5 | objections shall be filed and served within fourteen days after service of the objections. The

6 | parties are advised that failure to file objections within the specified time may waive the right to

7 | appeal the District Court's order. <u>Martinez v. Ylst</u>, 951 F.2d 1153 (9th Cir. 1991).

8 | DATED: June 23, 2015

9

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE