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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FARAJI LAMONT LEE,

 Petitioner,

 v.

FRED FIGUEROA,

 Respondent.

No. 2:14-cv-2724 MCE AC P

ORDER

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

On June 17, 2015, findings and recommendations were issued recommending dismissal of the case due to petitioner’s failure to file an in forma pauperis affidavit or pay the appropriate filing fee. ECF No. 6. Petitioner did not object to the findings and recommendations and the case was dismissed on July 21, 2015. ECF Nos. 7, 8. On August 11, 2015, the court received a letter from petitioner in which he indicated that he did not receive the June 17, 2015 findings and recommendations and that his first notice that he had been required to take action was the order dismissing his case. ECF No. 9. On September 21, 2015, the district judge vacated the order dismissing the case and directed petitioner to file objections to the June 17, 2015 findings and recommendations, file an in forma pauperis affidavit, or pay the filing fee within thirty days.

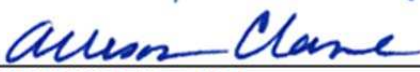
In re-opening the case, the court noted that it appeared from the petition that petitioner

1 may have filed his action in the wrong court. ECF No. 10 at 2. From the petition, it appeared that
2 petitioner was seeking to have his felony convictions resentenced as misdemeanors pursuant to
3 California Proposition 47 (2014). Id. The court advised petitioner that if this was in fact the
4 relief he sought, then his claim needed to be pursued in the trial court where he was convicted.
5 Id. The court expressed no opinion as to petitioner's eligibility for resentencing. Id. at 3 n.1.
6 ECF No. 10.

7 The thirty day period has passed and petitioner has not responded to the September 21,
8 2015 order in any way. It is unclear whether petitioner's lack of response is because he has
9 chosen to pursue an action in state court or if it is due to some other reason.

10 Accordingly, IT IS HEREBY ORDERED that within thirty days of service of this order,
11 petitioner shall (1) file objections to the June 17, 2015 findings and recommendations, (2) file an
12 in forma pauperis affidavit, (3) pay the filing fee, or (4) file a notice telling the court that he is no
13 longer continuing with this case. Failure to comply with this order will result in a
14 recommendation that the case be dismissed for failure to prosecute.

15 DATED: December 8, 2015

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17 ALLISON CLAIRE
18 UNITED STATES MAGISTRATE JUDGE
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