

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

LARRY ALTAMIRANO SERMENO,
Petitioner,
v.
M.E. SPEARMAN,
Respondent.

No. 2:14-cv-2729 JAM DB P

FINDINGS AND RECOMMENDATIONS

On July 24, 2019, a court order was served at petitioner’s address of record. (ECF No. 107). The order directed respondent to file a response to petitioner’s petition within sixty days. (See id. at 3). It also directed petitioner to file either a reply or an opposition within thirty days of respondent filing a response. (See id. at 3-4). On August 2, 2019, the court’s order served on petitioner was returned to the court as undeliverable. A subsequent notice of case reassignment served on petitioner on August 28, 2019 (see ECF No. 111), was also returned to the court as undeliverable on September 16, 2019. Since these orders were returned, petitioner has not filed a notice of change of address with the court.

On September 23, 2019, respondent filed an answer to the petition and lodged the state record. (ECF Nos. 113, 114). To date, petitioner has not filed a reply to respondent’s answer.


It appears that petitioner has failed to comply with Local Rule 182(f), which requires that a party appearing in propria persona inform the court of any address change. More than sixty-

1 three days have passed since the July 24, 2019, court order was returned to the court by the postal
2 service, and petitioner has failed to notify the court of a current address. Petitioner's thirty-day
3 time period within which to file a reply to respondent's answer has also expired.

4 Accordingly, IT IS HEREBY RECOMMENDED that this action be DISMISSED without
5 prejudice for failure to prosecute and for failure to keep the court apprised of a current address.
6 See Fed. R. Civ. P. 41(b); see also L.R. 110, 183(b).

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. The document should be captioned "Objections to Magistrate Judge's
11 Findings and Recommendations." Any response to the objections shall be filed and served within
12 fourteen days after service of the objections. The parties are advised that failure to file objections
13 within the specified time may waive the right to appeal the District Court's order. Martinez v.
14 Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: November 6, 2019

16
17
18 
19 DEBORAH BARNES
20 UNITED STATES MAGISTRATE JUDGE

21 DB:13
22 DLB/ORDERS/ORDERS.PRISONER.HABEAS/serm2729.133a.ftp
23
24
25
26
27
28