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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ARTHUR EUGENE TYES,
Petitioner,
v.
STUART SHERMAN,
Respondent.

No. 2:15-cv-02655-KJM-GGH

ORDER

Petitioner filed his petition for writ of habeas corpus pro se on December 23, 2015. ECF No. 1. The magistrate judge to whom the matter was assigned dismissed the petition as successive on February 1, 2016, ECF No. 5, and judgment was entered the following day. ECF No. 6. On July 14, 2017 the Ninth Circuit Court of Appeals granted petitioner’s application to file a second or successive petition, ECF No. 7, and the case was reopened in this court pursuant to an order entered on July 24, 2017. ECF No. 10.

On September 21, 2017 the respondent moved to dismiss the petition. ECF No. 12. On September 4, 2018 the magistrate judge filed and served Findings and Recommendations in which he granted the parties twenty-one (21) days to file objection warning that the fail to do so could result in a waiver of their right to appeal this court’s Order. ECF No. 22. No objections have been filed.

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In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having reviewed the file and the magistrate judge’s findings and recommendations the court ADOPTS the findings and recommendations in full.

Accordingly, IT IS HEREBY ORDERED that:

1. The Respondent’s Motion to dismiss is GRANTED;
2. The petition for writ of habeas corpus is dismissed with prejudice;
3. No Certificate of Appealability shall be issued;
4. The Clerk of the Court shall close this case.

IT IS SO ORDERED.

DATED: November 5, 2018

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE