UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

BOBBY D. JOHN,

Petitioner,

v.

DAVID LONG,

Respondent.

No. 2:16-cv-1218 MCE AC P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se with a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. On March 15, 2017, respondent filed a motion to dismiss the petition. ECF No. 13. On May 3, 2017, petitioner was ordered to file and serve, within twenty-one days, an opposition or statement of non-opposition to the pending motion. ECF No. 17. Petitioner responded and stated that he had not received a copy of the motion to dismiss. ECF No. 18. He requested an extension of time and a copy of the motion. Id. Petitioner's request was granted and he was given thirty days to respond to the motion to dismiss. ECF No. 20. When petitioner failed to respond to the motion to dismiss within thirty days, he was given an additional twenty-one days to respond and was informed that failure to file an opposition would result in a recommendation that this action be dismissed without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). ECF No. 21. The twenty-one-day period has now expired, and petitioner has not responded to the court's order.

For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be filed and served within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: August 17, 2017

ALLISON CLAIRE

UNITED STATES MAGISTRATE JUDGE