UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

MAI THI VU,

Petitioner,

v.

RON RACKLEY,

Respondent.

No. 2:16-cv-1732 MCE AC P

FINDINGS AND RECOMMENDATIONS

Petitioner is a former state prisoner proceeding pro se with a habeas corpus petition filed pursuant to 28 U.S.C. § 2254. On January 30, 2017, respondent filed a motion to dismiss the petition. ECF No. 10. On March 24, 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. 12. In the same order, petitioner 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). Id. 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: April 26, 2017

ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE