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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAUL ALVAREZ HERNANDEZ,
Petitioner,
v.
STU SHERMAN, Warden,
Respondent.

No. 2:16-cv-02472 MCE GGH

FINDINGS AND RECOMMENDATIONS

Petitioner is proceeding pro se in this habeas corpus action filed on March 10, 2017. ECF No. 1. On December 29, 2016 the magistrate judge issued an Order to Show Cause [“OSC”] requiring petitioner to explain why his failure to oppose respondent’s December 12, 2016 Motion to Dismiss should not be deemed a waiver of any opposition to the granting of the motion, or he could, in the alternative, file a opposition within that thirty day period. In that Order petitioner was cautioned that failure to respond or to file an opposition would result in a recommendation that this action be dismissed. Petitioner has filed nothing with the court.

Finally, the court has reviewed the motion and finds that it has merit standing alone and would therefore be granted in light of the failure to respond to the OSC.

In light of the foregoing, the court makes the following recommendations:

1. The petition be dismissed with prejudice for failure to obey an Order of the Court;
2. No Certificate of Appealability shall be issued; and

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3. The Clerk of the Court shall close this file.

These Findings and Recommendation are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen (14) days after being served with these findings and recommendations, any party may file written objections with the court. Such a document should be captioned “Objections to Magistrate Judge's Findings and Recommendations.” 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: May 10, 2017

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

Hernandez.2472.F&R.Order