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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

TOUA DELYNN THAO,
Petitioner,
v.
WILLIAM MUNIZ, Warden,
Respondent.

No. 2:16-cv-2477 KJM AC P

FINDINGS AND RECOMMENDATIONS

Petitioner is a state prisoner at Salinas Valley State Prison proceeding pro se and in forma pauperis with a petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. On March 10, 2017, respondent moved to dismiss the petition on the grounds that it was filed beyond the one-year statute of limitations and contains an unexhausted claim. See ECF No. 14. Petitioner did not file an opposition or statement of non-opposition to the motion, which was due within thirty days. See ECF No. 9 at 2, ¶ 4.

By order filed April 25, 2017, the court accorded petitioner an additional twenty-one days to respond to the motion to dismiss, and informed petitioner that failure to timely comply 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. 17 at 1-2. Petitioner did not respond to the court’s order or otherwise communicate with the court.

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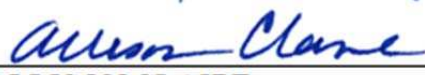
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Accordingly, IT IS HEREBY RECOMMENDED that:

1. This action be dismissed without prejudice for failure to prosecute, see Fed. R. Civ. P. 41(b); and
2. The Clerk of Court be directed to close this case.

These findings and recommendations are submitted to the United States District Judge assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court. Such 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: October 12, 2017



ALLISON CLAIRE
UNITED STATES MAGISTRATE JUDGE