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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SANTINO DeANDA,

Petitioner,

v.

UNKNOWN,

Respondent.

No. 2:16-cv-02755-JAM-GGH

ORDER

PROCEDURAL HISTORY

On November 21, 2016 petitioner filed a letter requesting that the court to “preserve” his time limits to file a petition, ECF No. 1. On December 13, 2016, that request was denied by the magistrate judge assigned to the case, and petitioner was granted 30 days from the date of the Order to file a proper petition. ECF No. 3. On December 29, 2016 the petitioner requested an open-ended extension of time to prepare his writ, ECF No 8, and on March 23, 2017, no petition having yet been received, the district court ordered the action dismissed without prejudice, ECF No. 11, and Judgment was entered o the case the same day. ECF No. 12.

On April 9, 2018, Petitioner filed a Motion to Stay to arrest the deadline for the filing of a full petition for Habeas Corpus relief. ECF No. 14

DISCUSSION

As this court explained in the Findings and Recommendations of the magistrate judge filed on January 20, 2017, the district court does not have the power to override the filing

1 requirements established in the AEDPA statute, 28 U.S.C. 2254, and therefore cannot provide
2 extensions of time until a petition is filed no matter how deficient that petition might be. ECF
3 No. 10. The district court agreed with the recommendation that the action should be dismissed
4 when it filed its Order and Judgment on March 23, 2017. ECF Nos. 11, 12 respectively. Thus
5 there is no action pending upon which this court can act under the law.

6 *CONCLUSION*

7 In light of the foregoing, IT IS HEREBY ORDERED that:

- 8 1. The motion to stay, construed as yet another request for extension of time to file a
9 habeas petition, is denied;
- 10 2. The Clerk of the Court shall not accept any further filings in this closed case.

11 **IT IS SO ORDERED.**

12 Dated: April 16, 2018

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14 /s/ Gregory G. Hollows
15 UNITED STATES MAGISTRATE JUDGE
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