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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICORD D. HUBER,
Petitioner,
v.
J. LIZARRAGA,
Respondent.

No. 2:17-cv-0292 DB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus under 28 U.S.C. § 2254. On March 9, 2017, petitioner was ordered to submit the \$5.00 filing fee to proceed with this case. In a document filed March 27, 2017, petitioner stated that he was enclosing the payment. However, the filing received by the court did not contain any payment.


On August 3, 2017, petitioner was given another opportunity to submit the appropriate filing fee within thirty days. Petitioner was warned that his failure to do so would result in a recommendation that this action be dismissed. Petitioner has not paid the filing fee or otherwise responded to the court's August 3 order.

Accordingly, the Clerk of the Court IS HEREBY ORDERED to assign a district judge to this case; and

IT IS HEREBY RECOMMENDED that this case be dismissed without prejudice. See E.D. Cal. R. 110; Fed. R. Civ. P. 41(b).

1 These findings and recommendations will be submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
3 after being served with these findings and recommendations, petitioner may file written
4 objections with the court. The document should be captioned “Objections to Magistrate Judge's
5 Findings and Recommendations.” Petitioner is advised that failure to file objections within the
6 specified time may result in waiver of the right to appeal the district court’s order. Martinez v.
7 Ylst, 951 F.2d 1153 (9th Cir. 1991). In his objections petitioner may address whether a certificate
8 of appealability should issue in the event he files an appeal of the judgment in this case. See Rule
9 11, Rules Governing § 2254 Cases (the district court must issue or deny a certificate of
10 appealability when it enters a final order adverse to the applicant).

11 Dated: September 15, 2017

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15 DEBORAH BARNES
16 UNITED STATES MAGISTRATE JUDGE
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