UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

11 ENRIQUE CHAVEZ,

No. 2:17-cv-00575-GEB-GGH

v.

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J. SULLIVAN, Warden

Petitioner.

Respondent.

FINDNGS AND RECOMMENDATIONS

Petitioner appears pro se in this habeas corpus matter. On June 30, 2017 Respondent filed and served a Motion to Dismiss the petition. ECF No. 10. On July 14, 2017 petitioner requested a 30 day extension of time to respond to the Motion which resulted in the issuance of an order granting the request and specifying that petitioner had until August 29, 2017 to file opposition. ECF No. 13.

When no further request for time and no opposition was received from petitioner, on September 25, 2017 the court issued an Order to Show Cause why the petitioner's silence should not be construed as a waiver of opposition to the pending Motion to Dismiss and providing petitioner with a 15 day time frame in which to respond to the Order. ECF No. 14. Petitioner's response was, therefore, due on or before October 11, 2017. In this Order the magistrate warned petition that failure to time respond would lead to a recommendation that his petition be dismissed with prejudice. Again, petitioner has remained silent. The court construes the

1	petitioner's silence as an indication that he has no opposition to the granting of the Motion to
2	Dismiss.
3	Accordingly, IT IS HEREBY RECOMMENDED that:
4	1. The petition should be dismissed with prejudice;
5	2. No Certificate of Appealability should issue; and
6	3. The Clerk of the Court shall close this file.
7	These findings and recommendations are submitted to the United States District Judge
8	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within twenty days
9	after being served with these findings and recommendations, any party may file written
10	objections with the court and serve a copy on all parties. Such a document should be captioned
11	"Objections to Magistrate Judge's Findings and Recommendations." Failure to file objections
12	within the specified time may waive the right to appeal the District Court's order. Martinez v.
13	<u>Ylst</u> , 951 F.2d 1153 (9th Cir. 1991, 951 F.2d 1153 (9th Cir. 1991
14	IT IS SO ORDERED.
15	Dated: October 23, 2017
16	<u>/s/ Gregory G. Hollows</u> UNITED STATES MAGISTRATE JUDGE
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