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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENNY MARTINEZ,  
Petitioner,  
v.  
TIM P. KAM,  
Respondent.

No. 2:17-cv-01394-GGH

ORDER and FINDINGS AND RECOMMENDATIONS

Petitioner is unrepresented in this habeas corpus action. This case was referred to the undersigned pursuant to Eastern District of California Local Rule ["LR"] 302(c)(21).

On July 24, 2017 the court issued an order that dismissed the petition without prejudice and directing petitioner to file an amended petition (or complaint) that complied with the instructions found in the order within 45 days of the service of the order. Petitioner has not complied with that order.

In light of the foregoing IT IS HEREBY ORDERED:

The Clerk shall randomly assign a district judge to this case;

IT IS HEREBY RECOMMENDED:

- 1. The case be dismissed without prejudice;
- 2. No certificate of appealability shall issue.

These findings and recommendations are submitted to the United States District Judge

1 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days  
2 after being served with these findings and recommendations, petitioner may file written  
3 objections with the court and serve a copy on all parties. Such a document should be captioned  
4 “Objections to Magistrate Judge’s Findings and Recommendations.” Petitioner is advised  
5 that failure to file objections within the specified time may waive the right to appeal the District  
6 Court’s order. The petitioner is advised that failure to file objections within the specified time  
7 may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir.  
8 1991, 951 F.2d 1153 (9th Cir. 1991

9 Dated: September 25, 2017

10 /s/ Gregory G. Hollows  
11 UNITED STATES MAGISTRATE JUDGE  
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