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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL DRAKEFORD,  
Petitioner,  
v.  
J. LIZARAGA, ,  
Respondent.

No. 2:17-cv-1571 MCE DB P

ORDER

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 15, 2017, respondent filed a motion to dismiss the petition. Petitioner has not filed an opposition to the motion.

In the court's order filed September 20, 2017, petitioner was advised that any opposition to a motion shall be filed and served within thirty days after service of the motion. (ECF No. 4.) Petitioner has filed no opposition, although court records reflect petitioner was properly served with notice of the motion.<sup>1</sup>

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<sup>1</sup> The court notes that respondent filed two proofs of service. The first shows that respondent served petitioner with a copy of the motion on November 15, 2017. (ECF No. 9-3.) The second is an amended proof of service showing that respondent served petitioner on December 5, 2017. (ECF No. 10.) The court accepts this amended proof of service as reflecting the date petitioner was in fact served.

1 Local Rule 230(l) provides in part: “Failure of the responding party to file written  
2 opposition or to file a statement of no opposition may be deemed a waiver of any opposition to  
3 the granting of the motion . . . .” Further, Local Rule 110 provides that failure to comply with  
4 the Local Rules “may be grounds for imposition of any and all sanctions authorized by statute or  
5 Rule or within the inherent power of the Court.”

6 Petitioner is cautioned that failure to file an opposition to the motion to dismiss will be  
7 deemed a statement of non-opposition and may result in a recommendation that this action be  
8 dismissed without prejudice. Petitioner will be given one more opportunity to file an opposition.

9 Accordingly, IT IS HEREBY ORDERED that within thirty days of the date of this order  
10 petitioner shall file his opposition to respondent's motion to dismiss. If petitioner fails to file an  
11 opposition, this court will recommend dismissal of this action.

12 Dated: January 12, 2018

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15 DEBORAH BARNES  
16 UNITED STATES MAGISTRATE JUDGE  
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23 DB/orders/prisoner-habeas/drak1571.fta  
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