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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

L. RICHARD,
Petitioner,
v.
UNKNOWN,
Respondent.

No. 2:17-cv-2012 KJN P

ORDER AND FINDINGS AND
RECOMMENDATIONS

By an order filed October 11, 2017, petitioner’s motion was denied, and he was ordered to file, within thirty days,¹ a petition and an application to proceed in forma pauperis or the court’s filing fee, and was cautioned that failure to do so would result in a recommendation that this action be dismissed. The thirty day period has now expired, and petitioner has not responded to the court’s order or filed any document required by the order.

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

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¹ By setting this deadline, the court made no finding or representation that the petition is not subject to dismissal as untimely. See Sossa v. Diaz, 729 F.3d 1225, 1231-35 (9th Cir. 2015). Petitioner is reminded that a one year statute of limitations is applicable to all claims presented in a federal habeas corpus petition. See 28 U.S.C. § 2244(d)(1); see also Mardesich v. Cate, 668 F.3d 1164 (9th Cir. 2012) (holding that the one year statute of limitations applied to each claim in a habeas petition on an individual basis).

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IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice.

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, petitioner may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” If petitioner files objections, he shall also address whether a certificate of appealability should issue and, if so, why and as to which issues. A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(3). Petitioner is advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: November 21, 2017


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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