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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE ANTONIO DURAN,  
Petitioner,  
v.  
SCOTT FRAUENHEIM,  
Respondent.

No. 2:17-cv-2122 DJC AC P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 22, 2023, the Magistrate Judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. (ECF No. 33.) Neither party has filed objections to the findings and recommendations.

Although it appears from the file that Petitioner's copy of the findings and recommendations was returned, Petitioner was properly served. It is the petitioner's responsibility to keep the court apprised of his current address at all times. Pursuant to Local Rule 182(f), service of documents at the record address of the party is fully

1 effective.

2 The Court has reviewed the file and finds the findings and recommendations to  
3 be supported by the record and by the magistrate judge's analysis. The Court issued  
4 an additional order to show cause within fourteen days why this action should not be  
5 dismissed as moot and for failure to prosecute. (ECF No. 34.) Plaintiff has not  
6 responded to that order and it was also returned.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The findings and recommendations filed June 22, 2023 (ECF No. 33), are  
9 adopted in full;

10 2. This action is dismissed without prejudice for failure to prosecute. See L.R.  
11 183(b).

12 3. The Court declines to issue the certificate of appealability referenced in 28  
13 U.S.C. § 2253 as Petitioner has not made a substantial showing of the denial of a  
14 constitutional right, see 28 U.S.C. § 2253(c)(2).

15 4. The Clerk of the Court is directed to close this case.

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17 IT IS SO ORDERED.

18 Dated: September 25, 2023

  
19 Hon. Daniel J. Calabretta  
20 UNITED STATES DISTRICT JUDGE

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