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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH WAYNE MILLS,  
Petitioner,  
v.  
ATTORNEY GENERAL, STATE OF  
CALIFORNIA, et al.,  
Respondents.

No. 2:17-cv-2157 GEB CKD P

FINDINGS AND RECOMMENDATIONS

On November 9, 2017, petitioner was granted thirty days’ leave to file a petition for writ of habeas corpus on the form used by this district and provided to petitioner by the Clerk of the Court. Petitioner was warned the form must be filled out completely and accurately. The thirty day period has now expired, and petitioner has not filed a petition for writ of habeas corpus on the court’s form.<sup>1</sup>

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

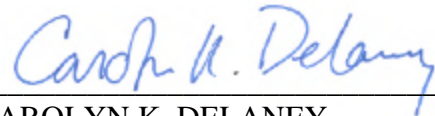
These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, petitioner may file written

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<sup>1</sup> On November 17, 2017, petitioner submitted a completed form-42 U.S.C. § 1983 complaint which is generally used by prisoners to challenge conditions of confinement.

1 objections with the court. Such a document should be captioned “Objections to Magistrate  
2 Judge’s Findings and Recommendations.” In his objections petitioner may address whether a  
3 certificate of appealability should issue in the event he files an appeal of the judgment in this  
4 case. See Rule 11, Federal Rules Governing Section 2254 Cases (the district court must issue or  
5 deny a certificate of appealability when it enters a final order adverse to the applicant). Where, as  
6 here, a habeas petition is dismissed on procedural grounds, a certificate of appealability “should  
7 issue if the prisoner can show: (1) ‘that jurists of reason would find it debatable whether the  
8 district court was correct in its procedural ruling;’ and (2) ‘that jurists of reason would find it  
9 debatable whether the petition states a valid claim of the denial of a constitutional right.’” Morris  
10 v. Woodford, 229 F.3d 775, 780 (9th Cir. 2000) (quoting Slack v. McDaniel, 529 U.S. 473, 484  
11 (2000)). Petitioner is advised that failure to file objections within the specified time may waive  
12 the right to appeal the District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

13 Dated: December 21, 2017



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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