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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAKE CLARK,  
Petitioner,  
v.  
RAYTHEL FISHER, JR.,  
Respondent.

No. 2:17-cv-02574 TLN GGH P

FINDINGS AND RECOMMENDATION

Petitioner is a state prisoner proceeding pro se with a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On February 6, 2019, petitioner filed his first amended petition for a writ of habeas corpus. ECF No. 34. On February 22, 2019, the court granted petitioner thirty days to file a second amended petition in compliance with the court’s instructions. ECF No. 35. On March 27, 2019, petitioner requested a sixty-day extension of time to file his second amended petition, which the court granted in part. ECF Nos. 36, 37. On May 3, 2019, the undersigned issued an order to show cause for petitioner’s failure to file his second amended petition within the required timeframe. ECF No. 38. On May 20, 2019, petitioner requested a second extension of time to file his amended petition, which the court granted in part giving petitioner an additional thirty days to file his amended petition. ECF Nos. 39, 40. The undersigned informed petitioner that no further extensions would be granted. ECF No. 40. On June 26, 2019, petitioner requested a third extension of time to file his amended petition, which the court again granted. ECF Nos.

1 41, 42. The undersigned informed petitioner the following:

2 The previous order granting an extension of time provided that there  
3 would be no further extensions. However, the undersigned  
4 recognizes that the potential habeas action involves a life sentence  
5 and will grant one further extension. A failure to timely file the  
6 amended habeas petition in accordance with the court's previous  
7 instructions will result in a recommendation of dismissal.

8 ECF No. 42. Petitioner has again failed to now file his second amended petition.

9 The court has gone the extra yard in recognizing petitioner's pro se status. Even before  
10 the filing of the First Amended Petition, Findings and Recommendations were filed  
11 recommending dismissal of the petition based on petitioner's inaction, but this Findings and  
12 Recommendation was vacated to give petitioner another chance to litigate his action. Afterwards,  
13 as evidenced by the discussion above, petitioner continues to view court ordered time  
14 requirements as optional. Petitioner has wasted the court's time.

15 Accordingly, IT IS HEREBY RECOMMENDED that:

- 16 1. The petition be dismissed; and
- 17 2. The District Court decline to issue a certificate of appealability.

18 These findings and recommendations are submitted to the United States District Judge  
19 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days  
20 after being served with these findings and recommendations, any party may file written  
21 objections with the court and serve a copy on all parties. Such a document should be captioned  
22 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections  
23 shall be served and filed within fourteen days after service of the objections. The parties are  
24 advised that failure to file objections within the specified time may waive the right to appeal the  
25 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

26 Dated: August 19, 2019

27 /s/ Gregory G. Hollows  
28 UNITED STATES MAGISTRATE JUDGE