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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORY ALLEN TUCKER,
Petitioner,
v.
JOSE GASTELO,¹
Respondent.

No. 2:18-cv-0035 TLN KJN P

ORDER TO SHOW CAUSE

Petitioner is a state prisoner, proceeding pro se, with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 3, 2019, respondent filed a motion to dismiss petitioner’s amended petition. On June 5, 2019, petitioner was granted an extension of time, up to and including July 15, 2019, in which to file an opposition, and was cautioned that failure to file a timely opposition may result in the dismissal of this action. (ECF No. 34.) That deadline has now passed, and petitioner has not filed an opposition to the motion.

Local Rule 230(l) provides in part: “Failure of the responding party to file written opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion” Id.

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¹ Petitioner was transferred to California Men’s Colony, where the current warden is Jose Gastelo. Accordingly, Warden Gastelo is substituted as respondent in this matter. Fed. R. Civ. P. 25(d); see Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992).

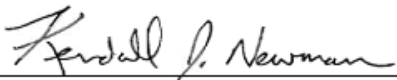
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Good cause appearing, IT IS HEREBY ORDERED that:

1. Warden Gastelo is substituted as respondent; and

2. Petitioner shall show cause, within thirty days, why his failure to oppose respondent's motion to dismiss should not be deemed a waiver of any opposition to the granting of the motion, and he shall file an opposition. Petitioner is cautioned that failure to respond to the instant order, or to file an opposition to the pending motion to dismiss, will result in a recommendation that this action be dismissed.

Dated: July 29, 2019


KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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