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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RODNEY BUTLER,
Petitioner,
v.
MARK S. INCH,
Respondent.

No. 2:18-cv-00304-TLN-GGH

FINDINGS AND RECOMMENDATIONS

Petitioner filed his petition for writ on February 8, 2018. ECF No. 1. On April 22, 2018 respondent filed a Motion to Dismiss the petition. ECF No. 11. On June 1, 2018, this court issued an Order directing petitioner to file either an Opposition to the motion or a Statement of Non-Opposition to respondent’s motion within thirty (30) days of the issuance of the Order. Petitioner has done neither. As a result, the court will recommend that petitioner petition be dismissed pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and failure to obey a court order.

In light of the foregoing IT IS HEREBY RECOMMENDED that:

1. The petition for writ of habeas corpus should be dismissed based on Federal Rule of Civil Procedure 41(b);

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- 2. No certificate of appealability should be issued;
- 3. The Clerk of the Court should close this case.

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 thirty days after entry of these findings and recommendations, petitioner may file written objections with the court. Such a document should be captioned “Objections to Magistrate Judge's Findings and Recommendations.” The 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: July 13, 2018

/s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE