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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TREVOR NEIL RHONE,  
Petitioner,  
v.  
BUTTE COUNTY JAIL,  
Respondent.

No. 2:18-cv-834-GGH

FINDINGS AND RECOMMENDATIONS;  
ORDER

Petitioner filed his writ of habeas corpus in pro se on April 6, 2018. ECF No. 1. Petitioner consented to the jurisdiction of this court for all purposes on April 15, 2018. ECF No. 3. However, because respondent has not been served or consented to the undersigned as the presiding judge, Ninth Circuit authority does not permit the undersigned to act as the president.

On April 25, 2018 this court issued an order dismissing the petition with leave to amend within 45 days of the date of the Order and providing petitioner with an application to continue with his action in forma pauperis. ECF No. 4. In that Order the petitioner was warned that a failure to seek in forma pauperis status and to file an amended complaint within 45 days of the date of the Order would result in a dismissal of the action and closure of the file. Id at 4:6-7. Petitioner has filed neither the application nor an amended complaint.

In essence, petitioner has abandoned his habeas corpus effort by ignoring the Order of this court. Under these circumstances the court sees no purpose in taking any action to involve the

1 respondent in this matter along with the attendant cost both to respondent and to the court.

2 *CONCLUSION*

3 In light of the foregoing, IT IS HEREBY ORDERED that: the Clerk shall assign a district  
4 judge to this case;

5 IT IS HEREBY RECOMMENDED that:

- 6 1. The petition should be dismissed without leave to amend for failure to prosecute  
7 and for failure to obey a court Order pursuant to Federal Rule of Civil Procure 41(b);
- 8 2. No Certificate of Appealability should issue;
- 9 3. The Clerk of the Court should close this case.

10 These findings and recommendations are submitted to the United States District Judge  
11 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty (20) days  
12 after being served with these findings and recommendations, petitioner may file written  
13 objections with the court. Id.; see also Eastern District of California Local Rule 304(b). Such a  
14 document should be captioned “Objections to Magistrate Judge’s Findings and  
15 Recommendations.” Failure to file objections within the specified time may waive the right to  
16 appeal the District Court’s order. Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez  
17 v. Ylst, 951 F.2d 1153, 1156-57 (9th Cir. 1991).

18 Dated: November 6, 2018

19 /s/ Gregory G. Hollows  
20 UNITED STATES MAGISTRATE JUDGE