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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH D. MORELAND,  
Petitioner,  
v.  
UNKNOWN,  
Respondent.

No. 2:19-cv-02290 JAM GGH P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed a petition for writ of habeas corpus pursuant to 28 U.S.C. §2254.

On November 12, 2019, petitioner filed a motion for extension of time to file his writ of habeas corpus. ECF No. 1. On December 9, 2019, the court denied the motion for extension of time and provided petitioner an opportunity to properly commence his federal habeas action by filing a petition for writ of habeas corpus and an in forma pauperis affidavit or pay the required filing fee. ECF No. 3. Petitioner was warned that failure to comply with the court’s order and deadlines would result in a recommendation that this matter be dismissed. *Id.* at 3. Petitioner failed to respond within the requisite time. On January 30, 2020, the undersigned issued findings and recommendations recommending dismissal based on petitioner’s failure to prosecute this action. ECF No. 5. On March 3, 2020, petitioner filed late objections. ECF No. 6. In his objections, petitioner noted that his delay was due to multiple facility transfers and lack of access

1 to his property. Id. Petitioner, however, did not file his federal habeas petition nor his application  
2 to proceed in forma pauperis or pay the required filing fee, as instructed by this court on  
3 December 9, 2019. Nevertheless, on March 25, 2020, the court vacated its January 30, 2020  
4 findings and recommendations and afforded petitioner one more opportunity to properly  
5 commence this federal action. ECF No. 7. Petitioner was warned that failure to comply with the  
6 court's deadlines and orders would result in a recommendation that this matter be dismissed. Id.  
7 Petitioner was further warned that no further extensions would be allowed except for extenuating  
8 circumstances. Id. Petitioner failed to respond within the required deadline. Accordingly, on May  
9 18, 2020, the court issued findings and recommendations recommending dismissal of this action  
10 for failure to prosecute. ECF No. 8. On June 8, 2020, petitioner filed late objections. ECF No. 9.

11 In his objections, petitioner states that he has not had access to his property, including his  
12 legal paperwork, since November 2019. ECF No. 9. Petitioner states on November 6, 2019, he  
13 was transferred to the Solano County Superior Court. Id. at 1. Petitioner returned to North Kern  
14 State Prison on December 29, 2019. Id. Upon his return to state prison, petitioner began making  
15 efforts to retrieve his property and eventually began filing 602 grievances. Id. Petitioner states on  
16 or around May 6, 2020, petitioner received his property. Id. at 2. In support of these contentions,  
17 petitioner includes his California Department of Corrections and Rehabilitation ("CDCR") 602  
18 grievance forms and CDCR's appeal decisions granting in part, his requests for his property.

19 The undersigned finds petitioner has shown extenuating circumstances entitling petitioner  
20 an opportunity to properly commence this federal action. Petitioner shall take care to comply with  
21 the court's deadlines and orders or risk a recommendation that this action be dismissed for failure  
22 to prosecute and/or to follow a court order pursuant to Federal Rules of Civil Procedure 41(b).

23 Accordingly, IT IS HEREBY ORDERED that:

- 24 1. The Findings and Recommendations issued May 18, 2020, is VACATED;
- 25 2. Petitioner is granted thirty days from the date of service of this order to file a petition  
26 that complies with the requirements of the Rules Governing Section 2254 Cases, the Federal  
27 Rules of Civil Procedure, and the Local Rules of Practice; the petition must bear the docket  
28 number assigned this case. Petitioner shall also submit, within thirty days from the date of this

1 order, the application to proceed in forma pauperis on the form provided by the Clerk of Court, or  
2 the filing fee in the amount of \$5.00; and

3 3. Petitioner is warned that failure to comply with this order will result in a  
4 recommendation that this matter be dismissed. Fed. R. Civ. P. 41(a).

5 Dated: July 31, 2020

6 /s/ Gregory G. Hollows  
7 UNITED STATES MAGISTRATE JUDGE  
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