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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAIME EDEN CERPA,  
Petitioner,  
v.  
GIGI MATTERSON,  
Respondent.

Case No. 2:20-cv-02345-TLN-JDP (HC)  
FINDINGS AND RECOMMENDATIONS  
THAT RESPONDENT’S MOTION TO  
DISMISS BE GRANTED AND THE  
PETITION BE DISMISSED WITHOUT  
PREJUDICE  
OBJECTIONS DUE IN FOURTEEN DAYS  
ECF No. 13

Petitioner Jaime Eden Cerpa, a state prisoner, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. ECF No. 1. Respondent has filed a motion to dismiss in which she argues that the petition was prematurely filed because petitioner’s state court re-sentencing is pending. ECF No. 13 at 1. Petitioner filed a statement of non-opposition that concedes that the petition’s dismissal without prejudice is appropriate at this juncture. ECF No. 18. Accordingly, I recommend that:


1. Respondent’s motion to dismiss, ECF No. 13, be granted.
2. The petition, ECF No. 1, be dismissed without prejudice to filing a new petition upon completion of state court proceedings.
3. The court decline to issue the certificate of appealability referenced in 28 U.S.C. § 2253.
4. The Clerk of Court be directed to close the case.

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These findings and recommendations are submitted to the U.S. district judge presiding over the case under 28 U.S.C. § 636(b)(1)(B) and Local Rule 304. Within fourteen days of the service of the findings and recommendations, the parties may file written objections to the findings and recommendations with the court and serve a copy on all parties. That document must be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” The presiding district judge will then review the findings and recommendations under 28 U.S.C. § 636(b)(1)(C).

IT IS SO ORDERED.

Dated: May 6, 2021

  
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JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE