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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEWAYNE NORMAN CARTER,
Petitioner,
v.
M. McVAY,
Respondent.

No. 2:23-cv-00161-EFB (HC)

ORDER AND FINDINGS AND
RECOMMENDATIONS

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On April 17, 2023, the court directed petitioner to show cause why the petition should not be dismissed as untimely. ECF No. 5. Despite four extensions of time, petitioner has not responded to the order to show cause. ECF Nos. 7, 9, 11, 14. Thus, it appears that petitioner is unable or unwilling to show that the petition is timely.

Accordingly, it is ORDERED that the Clerk of the Court randomly assign a United States District Judge to this action.

Further, it is RECOMMENDED that this action be DISMISSED for the reasons stated in the April 17, 2023 order.

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 fourteen days after being served with these findings and recommendations, any party may file written

1 objections with the court and serve a copy on all parties. Such a document should be captioned
2 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
3 shall be served and filed within fourteen days after service of the objections. Failure to file
4 objections within the specified time may waive the right to appeal the District Court’s order.
5 *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir.
6 1991). In his objections petitioner may address whether a certificate of appealability should issue
7 in the event he files an appeal of the judgment in this case. *See* Rule 11, Rules Governing Section
8 2254 Cases (the district court must issue or deny a certificate of appealability when it enters a
9 final order adverse to the applicant).

10
11 Dated: November 17, 2023


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE