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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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11	KEVIN W. DUNIGAN,	Case No. 2:23-cv-02699-TLN-JDP (HC)	
12	Petitioner,	ORDER	
13	v.	WITHDRAWING FINDINGS AND RECOMMENDATIONS FOR FAILURE TO	
14	L. LUNDY,	PROSECUTE AND DENYING PETITIONER'S MOTION FOR	
15	Respondent.	EXTENSION OF TIME AS MOOT	
16		ECF Nos. 26 & 27	
17		FINDINGS AND RECOMMENDATIONS	
18		THAT THE AMENDED PETITION BE DISMISSED AS UNTIMELY AND FOR	
19		FAILURE TO STATE A COGNIZABLE CLAIM	
20		ECF No. 20	
21		OBJECTIONS DUE IN FOURTEEN DAYS	
22		Objections Del introckreen DATS	
23	Petitioner, a state prisoner, brings this action under section 2254 and attacks a sentence		
24	that appears to have been finalized in 2009. ECF No. 20 at 49. The claim appears beyond the		
25	one-year statute of limitations in the Anti-Terrorism and Effective Death Penalty Act		
26	("AEDPA"). Additionally, the petition, which runs to one-hundred and seventy pages with		
27	exhibits, is unintelligible and, thus, does not state a cognizable claim. For these reasons, and in		
28	light of petitioner's recent filings, I will withdraw my previous recommendations for failure to		
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prosecute, ECF No. 26, and submit these recommendations that the action be dismissed as
untimely and for failure to state a claim.

3	Under AEDPA, a state prisoner has one year, from the date his conviction is finalized, to		
4	file a federal habeas petition attacking that conviction. See Patterson v. Stewart, 251 F.3d 1243,		
5	1245 (9th Cir. 2001). Here, the conviction at issue appears to have been finalized in 2009. ECF		
6	No. 20 at 49. This action was filed in November of 2023 and thus, even with tolling, there		
7	appears no scenario in which this petition is timely. Additionally, the petition itself is		
8	incomprehensible. The substantive portion, that is the part that is not simply a haphazard		
9	collection of exhibits, is a lengthy screed of legal terms and case citations that is set down in		
10	handwriting that is difficult to read. Id. at 1-46. Despite my best efforts, I can discern no specific		
11	claims or legal theories in the amended petition and, thus, I find that it fails to state a cognizable		
12	claim. Petitioner will have a chance to address these deficiencies in his objections to these		
13	recommendations.		
14	Accordingly, it is hereby ORDERED that:		
15	1. The findings and recommendations at ECF No. 26 are WITHDRAWN.		
16	2. Petitioner's motion for extension of time to file objections to those recommendations,		
17	ECF No. 27, is DENIED as moot.		
18	Further, it is RECOMMENDED that the amended petition, ECF No. 20, be DISMISSED		
19	as untimely and for failure to state a cognizable claim.		
20	These findings and recommendations are submitted to the United States District Judge		
21	assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within fourteen days of		
22	service of these findings and recommendations, any party may file written objections with the		
23	court and serve a copy on all parties. Any such document should be captioned "Objections to		
24	Magistrate Judge's Findings and Recommendations," and any response shall be served and filed		
25	within fourteen days of service of the objections. The parties are advised that failure to file		
26	objections within the specified time may waive the right to appeal the District Court's order. See		
27	Turner v. Duncan, 158 F.3d 449, 455 (9th Cir. 1998); Martinez v. Ylst, 951 F.2d 1153 (9th Cir.		
28	1991).		

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2	IT IS SO ORDERED.	
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4		REMY D. PETERSON
5	UN	NITED STATES MAGISTRATE JUDGE
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