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WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA, LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

JOSE CARLOS SOTO-PINEDA
B.O.P. #64155-019

v.

BECKY CLAY

* CIVIL ACTION NO. 2:16 -CV-1238
*
*
* JUDGE UNASSIGNED
*
*
* MAGISTRATE JUDGE KAY
*
*

JUDGMENT

Before the court is a petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241, (Rec. Doc. 1), filed by the petitioner, Jose Carlos Soto-Pineda (“Soto-Pineda”). In his petition, Soto-Pineda claims that his two federal sentences should run concurrently, *id.* at p. 9, and that he should receive credit for time served in state custody prior to the imposition of his second federal sentence. *Id.*, att. 2, p. 3.

On January 31, 2017, the Magistrate Judge issued a Report and Recommendation, (Rec. Doc. 5), recommending the dismissal with prejudice of Soto-Pineda’s claim that his two federal sentences should run concurrently. Rec. Doc. 5, p. 3. The same day, the Magistrate Judge issued an Order directing Soto-Pineda to amend his petition within sixty (60) days as to the remaining claim seeking credit for time served in state custody. (Rec. Doc. 6). Specifically, the Magistrate Judge ordered Soto-Pineda to provide proof that he has attempted to exhaust available administrative remedies prior to filing suit, and to provide documentation showing that the time claimed was not credited toward another sentence. *Id.* at p. 4. As of today’s date, the petitioner has failed to comply with the court’s Order to amend his petition and has filed no objection to the Report and Recommendation.

A district court has the inherent authority to dismiss an action *sua sponte* if a plaintiff fails to prosecute or comply with a court order. Fed. R. Civ. P. 41(b); *McCullough v. Lynaugh*, 835 F.2d 1126, 1127 (5th Cir. 1988) (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-31 (1962)). Accordingly, for the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, determining that the findings are correct under the applicable law, and noting the absence of objections to the Report and Recommendation in the record; and pursuant to Federal Rule of Civil Procedure 41(b) and finding that Soto-Pineda has failed to comply with the Order to amend his petition, issued January 31, 2017;

IT IS ORDERED that the petition for a writ of *habeas corpus* pursuant to 28 U.S.C. § 2241 is **DISMISSED**, in accordance with the Report and Recommendation (Rec. Doc. 5) and pursuant to Federal Rule of Civil Procedure 41(b).

Alexandria, Louisiana, this 9th day of September, 2017.


DEE D. DRELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT