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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GILBERTO DIAZ-SANCHEZ,
Petitioner,

v.

LUIS MARTINEZ and KATHLEEN
ALLISON,
Respondents.

No. 1:14-cv-01204-ADA-SKO (HC)

**FINDINGS AND RECOMMENDATION
TO DISMISS PETITION**

[DEADLINE: 21 DAYS]

Petitioner is a state prisoner proceeding with counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On May 15, 2018, the District Court granted Petitioner’s motion for stay. (Doc. 66.) On July 3, 2019, the Court granted Petitioner’s motion to modify the stay. (Doc. 83.) Pursuant to the Court’s order, Petitioner was directed to file a status report every ninety (90) days. Petitioner was also directed to file a motion to lift the stay and an amended petition setting forth all exhausted claims within thirty (30) days of the final order from the California Supreme Court resolving the unexhausted claims. The last status report received by the Court was on August 2, 2022. (Doc. 98.)

On April 18, 2023, the Court issued an order directing Petitioner to file a status report within thirty (30) days. Petitioner was advised that failure to comply with the order would result

1 in a recommendation that the case be dismissed. Over thirty (30) days have passed, and
2 Petitioner has not responded to the Court's order.

3 Accordingly, IT IS HEREBY RECOMMENDED that the petition be DISMISSED. This
4 Findings and Recommendation is submitted to the United States District Court Judge assigned to
5 this case, pursuant to the provisions of 28 U.S.C. section 636 (b)(1)(B) and Rule 304 of the Local
6 Rules of Practice for the United States District Court, Eastern District of California. Within
7 twenty-one (21) days after being served with a copy, any party may file written objections with
8 the Court and serve a copy on all parties. Such a document should be captioned "Objections to
9 Magistrate Judge's Findings and Recommendation." Replies to the objections shall be served and
10 filed within ten (10) court days (plus three days if served by mail) after service of the objections.
11 The Court will then review the Magistrate Judge's ruling pursuant to 28 U.S.C. § 636 (b)(1)(C).
12 The parties are advised that failure to file objections within the specified time may waive the right
13 to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

14
15 IT IS SO ORDERED.

16 Dated: May 30, 2023

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE