IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

LONNIE OLIVER,

Petitioner, No. 2:12-cv-2831 KJN P

vs.

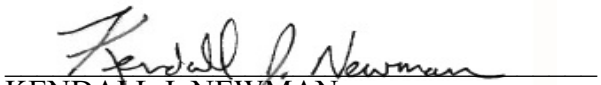
MICHAEL BABCOCK, Warden,

Respondent. ORDER

_____/

Both parties consented to proceed before the undersigned for all purposes. See 28 U.S.C. § 636(c). By order filed May 20, 2013, respondent was granted an extension of time until May 28, 2013, in which to file a responsive pleading. On May 22, 2013, petitioner filed a motion for judgment on the petition based on respondent's alleged failure to timely file an answer. Petitioner's filing was presented to prison officials for mailing on May 19, 2013, prior to the issuance of the court's May 20, 2013 order. On May 23, 2013, respondent timely filed a motion to dismiss. Thus, petitioner's motion lacks merit. IT IS HEREBY ORDERED that petitioner's May 22, 2013 motion (ECF No. 26) is denied without prejudice.

DATED: June 12, 2013



KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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