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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARRYL A. SCHLAPPI

Petitioner,

No. CIV S-10-0486 GEB CMK (TEMP) P

vs.

S.M. SALINAS

Respondent.

FINDINGS AND RECOMMENDATIONS

_____ /

Petitioner is a former state prisoner proceeding pro se with an application for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 23, 2010, respondent filed a motion to dismiss. Respondent later noticed the court that petitioner had been granted parole and was released from the State’s custody on July 26, 2010. See Docket No. 12. On January 14, 2011, the court ordered petitioner to show cause, within fourteen days, why his petition should not be dismissed in light of his parole and his failure to oppose the motion to dismiss. The court apprised petitioner that failure to comply with the order would result in a recommendation that this action be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure. More than fourteen days have now passed, and petitioner has not responded to the show cause order.

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1 IT IS THEREFORE RECOMMENDED that this case be dismissed pursuant to
2 Fed.R.Civ.P. 41(b).

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-
5 one days after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
8 shall be served and filed within fourteen days after service of the objections. The parties are
9 advised that failure to file objections within the specified time may waive the right to appeal the
10 District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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12 DATED: July 14, 2011

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14 **CRAIG M. KELLISON**
15 UNITED STATES MAGISTRATE JUDGE
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