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

PATRICK WRIGHT,

Petitioner,

No. CIV-S-10-2173 JAM KJN (TEMP) P

vs.

KATHLEEN DICKINSON,

Respondent.

FINDINGS AND RECOMMENDATIONS

_____ /

Petitioner is a state prisoner proceeding without counsel with an application for writ of habeas corpus under 28 U.S.C. § 2254. On December 10, 2010, respondent filed a motion to dismiss. On January 20, 2011, petitioner was ordered to file an opposition or a statement of non-opposition to the pending motion within thirty days. In the same order, petitioner was informed that failure to file an opposition would result in a recommendation that this action be dismissed pursuant to Fed. R. Civ. P. 41(b). The thirty day period has now expired and petitioner has not responded to the court's order.

For the foregoing reasons, IT IS HEREBY RECOMMENDED that this action be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen

1 days after being served with these findings and recommendations, any party may file written
2 objections with the court and serve a copy on all parties. Such a document should be captioned
3 “Objections to Magistrate Judge’s Findings and Recommendations.” If petitioner files
4 objections, he shall also address whether a certificate of appealability should issue and, if so, why
5 and as to which issues. A certificate of appealability may issue under 28 U.S.C. § 2253 “only if
6 the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. §
7 2253(c)(3). Any response to the objections shall be filed and served within seven days after
8 service of the objections. The parties are advised that failure to file objections within the
9 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
10 F.2d 1153 (9th Cir. 1991).

11 DATED: March 1, 2011

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14 KENDALL J. NEWMAN
15 UNITED STATES MAGISTRATE JUDGE

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