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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

WILLIE McDADE,	)	1:09-cv-00059 LJO YNP [DLB] (HC)
	)	
Petitioner,	)	FINDINGS AND RECOMMENDATION TO
	)	DISMISS PETITION FOR WRIT OF
v.	)	HABEAS CORPUS FOR FAILURE TO
	)	EXHAUST ADMINISTRATIVE REMEDIES
	)	
LYDIA HENSE,	)	
	)	
Respondent.	)	

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Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. No Respondent has yet appeared in this case.

On August 19, 2009, this Court issued an Order to Show Cause why the petition should not be dismissed for failure to exhaust administrative remedies, to which Petitioner was given thirty days to respond. (Doc. #12). As of the date of this Finding and Recommendation, Petitioner has not responded to the Order to Show Cause.

Petitioner is challenging a prison disciplinary action, which requires that all administrative remedies be exhausted before this Court can hear the petition. The petition fails to mention a single administrative remedy sought by Petitioner and Petitioner has failed to respond to the Order to Show Cause. Because Petitioner has given no indication to this Court that he has sought administrative review regarding this matter, the petition for writ of habeas corpus is should be dismissed.

RECOMMENDATION

Accordingly, IT IS HEREBY RECOMMENDED that the petition for a writ of habeas corpus be DISMISSED WITHOUT PREJUDICE. It is FURTHER RECOMMENDED that the

1 Clerk of Court be DIRECTED to enter judgment for Respondent.

2 This Findings and Recommendation is submitted to the Honorable Lawrence J. O'Neill,  
3 pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within thirty days after being served with  
4 the Findings and Recommendation, any party may file written objections with the Court and serve a  
5 copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's  
6 Findings and Recommendation." Any reply to the objections shall be served and filed within ten  
7 days after service of the objections. The parties are advised that failure to file objections within the  
8 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d  
9 1153 (9th Cir. 1991).

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IT IS SO ORDERED.

**Dated: November 16, 2009**

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE