

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LUIS ALBERTO VALENCIA,
Petitioner,
v.
CONNIE GIPSON, Warden,
Respondent.

Case No. 1:13-cv-01864-LJO-SMS HC

ORDER DISMISSING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
DISMISSAL OF PETITIONER'S
CASE WITHOUT PREJUDICE

(Doc. 21)

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On August 20, 2014, the Magistrate Judge issued findings and recommendations recommending that the Court dismiss count two but allow the petition to proceed on remaining counts. The Clerk of Court mailed Petitioner a copy of the findings and recommendations. On September 4, 2014, the copy mailed to Petitioner was returned to the Clerk mark "undeliverable, name and ID do not match."

Local Rule 183 required Petitioner to advise the Court of a change of address within 63 days. When Petitioner did not do so, the Magistrate Judge recommended that the case be dismissed without prejudice for failure to prosecute. In this instance, the copy of the findings and

1 recommendations that the Clerk mailed to Petitioner's last known address was successfully
2 delivered. On November 24, 2014, Petitioner advised the Court that his address had not changed
3 and that he could not explain why the copy of Document 19 was not delivered to him.

4 Petitioner's having advised the Court that his address has remained unchanged, the Court
5 hereby ORDERS that the Findings and Recommendations Recommending That the Court Dismiss
6 the Case for Failure to Prosecute be dismissed.

7
8
9 IT IS SO ORDERED.

10 Dated: November 26, 2014

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE