## 1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8 9 MARCUS LAMAR JOHNSON, Case No. 1:14-cv-01672-LJO-SKO HC 10 Petitioner, 11 FINDINGS AND RECOMMENDATION THAT THE COURT DISMISS THE CASE v. 12 FOR FAILURE TO PROSECUTE PAUL COPENHAVER, 13 Respondent. 14 15 Petitioner Marcus Lamar Johnson is a federal prisoner proceeding with a petition for writ of 16 17 habeas corpus pursuant to 28 U.S.C. § 2241. On July 10, 2017, the copy of an order mailed to 18 Petitioner was returned to the Clerk marked "undeliverable, unable to forward." 19 Local Rule 183 provides: 20 A party appearing *in propria persona* shall keep the Court and opposing parties 21 advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal Service, and if such Plaintiff 22 fails to notify the Court and opposing parties within sixty-three (63) days thereafter of a current address, the Court may dismiss the action without prejudice 23 for failure to prosecute. 24 Although more than sixty-three (63) days have elapsed from the date of the return of the 25 order mailed to Petitioner, Petitioner has failed to advise the Court of his current address or 26 contacted the Court in any other way. The Court has discretion to impose any and all sanctions 27

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authorized by statute or rule or within the inherent power of the Court, including dismissing the motion, based on a petitioner's failure to comply with a court rule. F.R.Civ.P. 11; Local R. 110.

## **Conclusion and Recommendation**

Accordingly, the undersigned RECOMMENDS that as a result of Petitioner's failure to prosecute the case, the Court dismiss with prejudice the motion for reconsideration in the above-captioned action.

These Findings and Recommendations will be submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C § 636(b)(1). Within **thirty (30) days** after being served with these Findings and Recommendations, Petitioner may file written objections with the Court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file objections within the specified time may constitute waiver of the right to appeal the District Court's order. *Wilkerson v. Wheeler*, 772 F.3d 834, 839 ((9th Cir. 2014) (citing *Baxter v. Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991)).

IT IS SO ORDERED.

Dated: September 19, 2017 /s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE