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1 2 3 <u>4</u> 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 STEVEN PHILPOTT. CASE NO. 1:14-cv-01766-LJO-MJS (PC) 12 Plaintiff, ORDER ADOPTING FINDINGS AND RECOMMENDATIONS TO DISMISS 13 ٧. **COMPLAINT FOR FAILURE TO STATE A CLAIM AND REQUIRE PLAINTIFF TO** 14 AUDREY KING, et al., FILE A HABEAS PETITION OR NOTICE 15 OF VOLUNTARY DISMISSAL Defendants. 16 (ECF No. 12) 17 **CLERK TO SEND PLAINTIFF HABEAS** PETITION FORM 18 **CASE TO REMAIN OPEN** 19 20 THIRTY (30) DAY DEADLINE 21 22 23 24 United States District Court for the Eastern District of California. 25 10, 2015, the Magistrate Judge On February 26 27

Plaintiff is a civil detainee proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302 of the

issued findings recommendations to dismiss Plaintiff's complaint for failure to state a claim, and to require Plaintiff to file, within thirty days, either a petition for a writ of habeas corpus or a

1 notice of voluntary dismissal. (ECF No. 12.) Plaintiff filed no objections. 2 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has 3 conducted a de novo review of this case. Having carefully reviewed the entire file, the 4 Court finds the Findings and Recommendation to be supported by the record and by 5 proper analysis. 6 Accordingly, it is HEREBY ORDERED that: 7 1. The Court adopts the findings and recommendations, filed on February 10, 8 2015 (ECF No. 12), in full; 9 2. Plaintiff's complaint (ECF No. 1) is DISMISSED for failure to state a claim; 10 3. The Clerk's Office is directed to send Plaintiff a habeas petition form; and 11 4. Plaintiff is required to file a habeas petition or a notice of voluntary dismissal within thirty (30) days of the date of this order. 12 13 14 IT IS SO ORDERED. 15 Dated: **March 9, 2015** /s/ Lawrence J. O'Neill 16 UNITED STATES DISTRICT JUDGE 17 18 19 20 21 22 23 24 25 26 27

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