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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SIMON LEE WILCOX,
Petitioner,

v.

STEVEN MERLAK, Warden, et al.,
Respondents.

No. 1:19-cv-01410-NONE-SKO (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

ORDER GRANTING RESPONDENT'S
MOTION TO DISMISS (Doc. No. 13)

ORDER DISMISSING PETITION FOR WRIT
OF HABEAS CORPUS

ORDER DIRECTING CLERK OF COURT TO
ASSIGN DISTRICT JUDGE FOR PURPOSE
OF CLOSING CASE AND THEN ENTER
JUDGMENT AND CLOSE CASE

(Doc. No. 18)

Petitioner is a federal prisoner proceeding in propria persona with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On March 2, 2020, the assigned magistrate judge issued findings and recommendations recommending that respondent's motion to dismiss the pending petition for lack of standing and ripeness, failure to exhaust, and lack of jurisdiction be granted. (Doc. Nos. 13, 18.) The findings and recommendations were served upon all parties and contained notice that any objections were to be filed within twenty-one (21) days from the date of service of that order. To date, no party has filed objections and the time for doing so has passed.

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1 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a
2 de novo review of the case. Having carefully reviewed the entire file, the court concludes that the
3 findings and recommendations are supported by the record and proper analysis.

4 A certificate of appealability is not be not required in this case because this is an order
5 denying a petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2241, not a final
6 order in a habeas proceeding in which the detention complained of arises out of process issued by
7 a state court. *Forde v. U.S. Parole Commission*, 114 F.3d 878 (9th Cir. 1997); *see Ojo v. INS*,
8 106 F.3d 680, 681-682 (5th Cir. 1997); *Bradshaw v. Story*, 86 F.3d 164, 166 (10th Cir. 1996).

9 Accordingly:

- 10 1. The findings and recommendations, filed March 2, 2020 (Doc. No. 18), are
11 ADOPTED IN FULL;
- 12 2. Respondent's motion to dismiss (Doc. No. 13) is GRANTED;
- 13 3. The petition for writ of habeas corpus is DISMISSED WITH PREJUDICE;
- 14 4. The Clerk of Court is directed to assign a district judge to this case for the purpose
15 of closing the case and then to ENTER JUDGMENT AND CLOSE THE CASE; and,
- 16 5. In the event a notice of appeal is filed, no certificate of appealability will be
17 required.

18 This order terminates the action in its entirety.

19 IT IS SO ORDERED.

20 Dated: April 15, 2020

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23 UNITED STATES DISTRICT JUDGE
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