Case 1:22-cv-00124-ADA-EPG Document 16 Filed 02/14/23 Page 1 of 2 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 BORIS C. MURPHY, No. 1:22-cv-00124-ADA-EPG (HC) 12 Petitioner. ORDER ADOPTING FINDINGS AND RECOMMENDATIONS, DENYING 13 v. RESPONDENT'S MOTION TO DISMISS, DENYING PETITION FOR WRIT OF 14 B.M. TATE, HABEAS CORPUS, AND DIRECTING CLERK OF COURT TO CLOSE CASE 15 Respondent. (ECF Nos. 8, 14) 16 17 Petitioner Boris C. Murphy is a federal prisoner proceeding pro se with a petition for writ of habeas corpus brought pursuant to 28 U.S.C. § 2241. This matter was referred to a United 18 19 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 On November 15, 2022, the Magistrate Judge issued findings and recommendations 21 recommending that Respondent's motion to dismiss for non-exhaustion be denied and the petition 22 for writ of habeas corpus be denied on the merits. (ECF No. 14.) The findings and recommendations were served on the parties and contained notice that any objections were to be 23 24 filed within thirty (30) days of the date of service of the findings and recommendations. On December 13, 2022, Petitioner filed timely objections. (ECF No. 15.) 25 26 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), the Court has conducted a 27 de novo review of the case. Having carefully reviewed the entire file, including Petitioner's 28 objections, the Court will adopt the findings and recommendation and deny the petition. 1

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In his o	objections, Petitioner challenges the Magistrate Judge's reliance on the "Notice of
Discipline Hearing Before the (DHO)," asserting that the signature on the notice was not	
Petitioner's an	nd had been forged. (ECF No. 15 at 3.) In support of this assertion, Petitioner has
submitted various documents with his signature. (Id. at 8-10.) Assuming that the signature was	
not Petitioner'	s and Petitioner did not receive the written "Notice of Discipline Hearing Before
the (DHO)," Petitioner nevertheless has not established that he suffered any prejudice from not	
receiving advanced written notice of the DHO hearing. See Graves v. Knowles, 231 F. App'x	
670, 672–73 (9th Cir. 2007) (applying harmless error review to due process claims in the prison	
disciplinary context). Petitioner does not claim that he was unable to marshal facts and prepare	
his defense due to the failure to receive advanced written notice. In fact, "Petitioner agrees, the	
Magistrate Judge is correct about him being aware of the charge (verbally)." (ECF No. 15 at 2.)	
Accordingly:	
1.	The findings and recommendations issued on November 15, 2022, (ECF No. 14),
	are adopted;
2.	Respondent's motion to dismiss, (ECF No. 8), is denied;
3.	The petition for writ of habeas corpus is denied; and

The Clerk of Court is directed to closed the case.

IT IS SO ORDERED.

4.

Dated: February 14, 2023

UNITED STATES DISTRICT JUDGE