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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JEFFREY J. BIGGS,

Petitioner,

No. 2:07-cv-0470 WBS KJN P (TEMP)

vs.

GOVERNOR SCHWARZENEGGER,  
et al.,

Respondents.

ORDER

\_\_\_\_\_ /

Petitioner is a former state prisoner proceeding through counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On January 28, 2011, the court issued findings and recommendations recommending that respondents' motion to dismiss be granted, noting petitioner failed to file an opposition. In objections, petitioner argues that counsel for respondents failed to properly notice the motion to dismiss for hearing pursuant to Local Rule 230(b). Petitioner appears to be correct. Accordingly, good cause appearing, the findings and recommendations are vacated, and the motion to dismiss is denied without prejudice.

IT IS HEREBY ORDERED that:

- 1. The January 28, 2011 findings and recommendations are vacated; and

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2. Respondents' September 22, 2010 motion to dismiss is denied without prejudice.

DATED: March 8, 2011

  
KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE

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