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

PRESTON L. PHILLIPS,

Petitioner,

No. 2:08-cv-2120 FCD KJN P

vs.

WARDEN ROBERT HOREL,

Respondent.

FINDINGS & RECOMMENDATIONS

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Petitioner is proceeding without counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. As noted in this court’s December 10, 2010 order, petitioner has been released on parole. By the order filed December 10, 2010, petitioner was ordered to show cause, within twenty-one days, why his action should not be dismissed based on his failure to file a notice of change of address. Petitioner was also cautioned that failure to comply with the order would result in a recommendation that this action be dismissed. The twenty-one day period has now expired, and petitioner has not shown cause or otherwise responded to the court’s order.

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen

1 days after being served with these findings and recommendations, any party may file written  
2 objections with the court and serve a copy on all parties. Such a document should be captioned  
3 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections  
4 shall be served and filed within fourteen days after service of the objections. The parties are  
5 advised that failure to file objections within the specified time may waive the right to appeal the  
6 District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

7 DATED: January 6, 2011

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10 KENDALL J. NEWMAN  
11 UNITED STATES MAGISTRATE JUDGE

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