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

BRIAN FOWLIE,

Petitioner,

No. 2: 08-cv-2744 GEB KJN P

vs.

D.K. SISTO,

Respondent.

FINDINGS & RECOMMENDATIONS

_____ /

Petitioner is proceeding without counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges the 2006 decision by the California Board of Parole Hearings (“BPH”) finding him unsuitable for parole. On February 4, 2011, the undersigned recommended that the petition be denied.

On February 28, 2011, respondent filed a notice stating that on February 11, 2011 petitioner was released on parole. Petitioner did not file a notice of change of address containing his new address. Accordingly, on March 9, 2011 petitioner was ordered to show cause why this action should not be dismissed for his failure to file a notice of change of address.

Petitioner is proceeding with another action in this court in which he filed a notice of change of address on March 10, 2011. See 2: 09-cv-0881 EFP, Dkt. No. 22. Accordingly, on March 14, 2011 petitioner’s address in the instant action was updated to reflect the address


1 contained in his notice of change of address filed in 09-0881. On March 16, 2011, the March 9,
2 2011 order to show cause was re-served on petitioner at this new address.

3 Neither order to show cause served on petitioner was returned unserved.
4 However, petitioner has not responded to either order to show cause. Based on petitioner's
5 failure to respond to the orders to show cause, the undersigned recommends that this action be
6 dismissed for petitioner's failure to respond to the court's orders.

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

9 These findings and recommendations are submitted to the United States District
10 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen
11 days after being served with these findings and recommendations, any party may file written
12 objections with the court and serve a copy on all parties. Such a document should be captioned
13 "Objections to Magistrate Judge's Findings and Recommendations." Any reply to the objections
14 shall be served and filed within fourteen days after service of the objections. The parties are
15 advised that failure to file objections within the specified time may waive the right to appeal the
16 District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

17 DATED: April 20, 2011

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20 KENDALL J. NEWMAN
21 UNITED STATES MAGISTRATE JUDGE

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