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

KENTRIC DEVONE MCKOY,

Petitioner,

No. CIV-S-08-2911 JAM KJM P

vs.

DEBRA DEXTER,

Respondent.

FINDINGS AND RECOMMENDATIONS

_____/

Petitioner is a state prisoner proceeding with an application for writ of habeas corpus under 28 U.S.C. § 2254. On July 31, 2009, the court issued an order for petitioner to show cause, within twenty days, why respondent’s motion to dismiss should not be granted for petitioner’s failure to file a response. See Docket No. 17. Petitioner has not filed an opposition to the motion to dismiss or otherwise complied with the order to show cause. Therefore the undersigned will recommend that the motion to dismiss be granted and this action dismissed without prejudice.

Accordingly, IT IS HEREBY RECOMMENDED that the motion to dismiss (Docket No. 15) be granted and this action dismissed without prejudice.

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

9 DATED: October 29, 2009.

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11 _____
12 U.S. MAGISTRATE JUDGE

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