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

PHANHAHA XABANDITH,

Petitioner,

No. CIV S-09-2550 DAD P

vs.

ROBERT A. HOREL,

Respondent.

ORDER AND

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_ /

By order filed October 9, 2009, petitioner’s petition for writ of habeas corpus was dismissed and thirty days leave to file an amended petition was granted. On November 9, 2009, petitioner was granted an additional thirty days to file an amended petition and was cautioned that failure to do so would result in a recommendation for dismissal of this action. The time period has now expired, and petitioner has not filed an amended petition or otherwise responded to the court’s order.

Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to randomly assign a United States District Judge to this action;

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

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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 one days after being served with these findings and recommendations, petitioner may file written  
4 objections with the court. The document should be captioned "Objections to Magistrate Judge's  
5 Findings and Recommendations." Petitioner is advised that failure to file objections within the  
6 specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951  
7 F.2d 1153 (9th Cir. 1991).

8 DATED: December 22, 2009.

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12 DALE A. DROZD  
13 UNITED STATES MAGISTRATE JUDGE

12 DAD:lg  
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