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

EARL C. MORRIS,

Petitioner,

No. CIV S-10-0897 JAM EFB P

vs.

JOHN W. HAVILAND,

Respondent.

FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding without counsel, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. On November 14, 2011, the district judge adopted the undersigned’s findings and recommendations, granted respondent’s motion to dismiss, and directed petitioner to file an amended petition within sixty days. Petitioner was directed to include in any amended petition factual allegations showing: (1) that success on petitioner’s claims could accelerate his release and (2) that petitioner remains subject to the discipline imposed on February 17, 2008 or that collateral consequences flow from that discipline which prevent the case from being moot. That order warned petitioner that failure to timely file an amended petition would result in a recommendation that this action be dismissed.

The time period for acting has passed and petitioner has not filed an amended petition or otherwise responded to that order.

1 Accordingly, it is hereby RECOMMENDED that this action be dismissed. *See* Fed. R.
2 Civ. P. 41(b); Rule 12, Rules Governing § 2254 Cases; L. R. 110.

3 These findings and recommendations are submitted to the United States District Judge
4 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
5 after being served with these findings and recommendations, any party may file written
6 objections with the court and serve a copy on all parties. Such a document should be captioned
7 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
8 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
9 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). In
10 his objections petitioner may address whether a certificate of appealability should issue in the
11 event he files an appeal of the judgment in this case. *See* Rule 11, Federal Rules Governing
12 Section 2254 Cases (the district court must issue or deny a certificate of appealability when it
13 enters a final order adverse to the applicant).

14 Dated: February 1, 2012.

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16 EDMUND F. BRENNAN
17 UNITED STATES MAGISTRATE JUDGE
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