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

STEVE BADUE,

No. 2:13-cv-2368-WBS-CMK-P

Petitioner,

vs.

FINDINGS AND RECOMMENDATIONS

SACRAMENTO COUNTY  
SUPERIOR COURT, et al.,

Respondents.

\_\_\_\_\_/

Petitioner, a former state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is petitioner’s petition for a writ of habeas corpus (Doc. 1).

Rule 4 of the Federal Rules Governing Section 2254 Cases provides for summary dismissal of a habeas petition “[i]f it plainly appears from the face of the petition and any exhibits annexed to it that the petitioner is not entitled to relief in the district court.” In the instant case, it is plain that petitioner is not entitled to federal habeas relief.

This court has jurisdiction to hear a 28 U.S.C. § 2254 petition only if the petitioner is in state custody and if he alleges he is in custody in violation of federal law, or the length of his sentence violates federal law. Here, petitioner indicates that he was sentenced in

1 June 2010, for two years and four months. His sentence therefore would have expired in or about  
2 October 2012. (See Pet., Doc. 1, at 1). In addition, the exhibits he attached to his petition  
3 indicate he was actually sentenced to three years parole as of October 20, 2009. In that case, his  
4 parole would also have expired in October 2012. He filed this petition on November 15, 2013,  
5 and indicates that his current address is a residential address in Sacramento. There is nothing in  
6 the petition to indicate he is currently incarcerated, on probation, or on parole. Nor is there any  
7 indication that the term of his parole was revoked or extended. Rather, it appears that he has  
8 been discharged from his sentence.

9           Petitioner has not presented the court with any other information to show that he  
10 fails meets the “in custody” requirements of 28 U.S.C. § 2254. The undersigned therefore finds  
11 this case must be dismissed. See Maleng v. Cook, 490 U.S. 488, 490-91 (1989).

12           Based on the foregoing, the undersigned recommends that petitioner’s petition for  
13 a writ of habeas corpus (Doc. 1) be summarily dismissed.

14           These findings and recommendations are submitted to the United States District  
15 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days  
16 after being served with these findings and recommendations, any party may file written  
17 objections with the court. Responses to objections shall be filed within 14 days after service of  
18 objections. Failure to file objections within the specified time may waive the right to appeal.  
19 See Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

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21 DATED: May 29, 2014

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23 **CRAIG M. KELLISON**  
24 UNITED STATES MAGISTRATE JUDGE  
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