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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN T. CARIDAD,
Petitioner,
v.
HARRY OREOL,
Respondent.

No. 2:14-cv-1847 KJM AC P

ORDER

Petitioner is a civil detainee who, in 2009, was adjudged a Mentally Disordered Offender pursuant to California Penal Code § 2970, and has since been incarcerated at Patton State Hospital. The First Amended Petition (FAP) for writ of habeas corpus, filed pursuant to 28 U.S.C. § 2254, challenges petitioner’s confinement beyond what he asserts was his previously designated release date of June 7, 2013. See FAP, ECF No. 27 at 7-8; see also original petition, ECF No. 1 at 1-4.

By order filed June 12, 2015, this court set a scheduling order. See ECF No. 47. Respondent was directed to file a response to the FAP within 60 days. Petitioner was informed that if the response to his petition was a motion, his opposition was due within 30 days. See id. at 2.

After obtaining extended time, respondent filed a motion to dismiss the FAP on September 2, 2015. See ECF No. 51. Petitioner has not filed an opposition or statement of

1 nonopposition, or any other response, to the motion. On July 6, 2016, petitioner filed a notice
2 that he had been moved to the Sacramento County Main Jail. See ECF No. 52. The court has
3 confirmed that petitioner remains incarcerated at the jail, awaiting a hearing (not yet scheduled)
4 on a petition for continued involuntary commitment under California Penal Code § 2970.¹

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. Petitioner shall, within fourteen (14) days after the filing date of this order, file and
7 serve an opposition or statement of nonopposition to respondent's motion to dismiss; no
8 extensions of time will be granted.

9 2. Respondent may, within five (5) days after service of petitioner's response, file and
10 serve a reply.


11 3. Due to petitioner's temporary detention in the county jail and the possible
12 inaccessibility of his pertinent legal documents, the court will, in an abundance of caution,
13 provide petitioner with copies of the documents essential to preparing his opposition or statement
14 of opposition. The Clerk of Court is directed to send petitioner, together with a copy of this
15 order, copies of the following documents:

- 16 a. Petitioner's First Amended Petition (FAP), ECF No. 27 (11 pp.).
17 b. Respondent's motion to dismiss, ECF No. 51 (6 pp.).
18 c. Respondent's earlier motion for enlargement of time, which contains the relevant
19 chronology and documents in support of respondent's motion, ECF No. 49 (23 pp.).

20 4. Petitioner's failure to timely respond to this order and respondent's motion to dismiss
21 will result in a recommendation that this action be dismissed without prejudice.

22 SO ORDERED.

23 DATED: August 25, 2016

24 
25 ALLISON CLAIRE
26 UNITED STATES MAGISTRATE JUDGE

27 ¹ See http://www.sacsheriff.com/inmate_information/SearchNames.aspx (Sacramento County
28 Inmate Information website) This Court may take judicial notice of facts that are capable of
accurate determination by sources whose accuracy cannot reasonably be questioned. See Fed. R.
Evid. 201; see also City of Sausalito v. O'Neill, 386 F.3d 1186, 1224 n.2 (9th Cir. 2004) (“We
may take judicial notice of a record of a state agency not subject to reasonable dispute.”).