Doc. 40 (HC) Olic v. Lizaraga 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 MILORAD OLIC, No. 2:14-cv-2120 KJM GGH P 12 Petitioner, 13 V. ORDER AND 14 WARDEN JOE A. LIZARRAGA. ORDER TO SHOW CAUSE 15 Respondent. 16 17 18 Petitioner is a state prisoner proceeding pro se with a habeas corpus petition pursuant to 19 28 U.S.C. § 2254. Respondent's motion to dismiss was filed and served on July 17, 2015. (ECF 20 No. 32.) Opposition to motions, or a statement of non-opposition thereto, must be filed within 21 twenty-one days after the date of service of the motion. E.D. Cal. L. R. 230(1). Court records 22 reflect that petitioner failed to file opposition or a statement of non-opposition to the motion, 23 despite receiving an extension of time in which to do so. (See ECF No. 35.) 24 It is true that petitioner had filed his most recent motion to obtain legal property on July 25 27, 2015, (ECF No. 34), which was construed as a motion for protective order and granted on 26 August 7, 2015, (ECF No. 35); however, respondent filed a satisfactory response on August 28, 27 2015, outlining the circumstances under which petitioner and his property have been transferred 28

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between institutions and how he is in possession of all of his legal materials. It now appears without question that petitioner has received all of his legal property. Therefore, as petitioner has been in possession of his legal property since at least August 28, 2015, he will not be granted further extensions of time in which to respond to the motion to dismiss, and the failure to file an opposition will result in a recommendation that this action be dismissed.

Good cause appearing, IT IS HEREBY ORDERED that: Within **twenty-one** days from the date of this order petitioner shall file and serve an opposition or non-opposition to the motion to dismiss, and shall show cause in writing why sanctions should not be imposed for failure to timely to file opposition or a statement of non-opposition to the pending motion. Failure to file opposition or a statement of non-opposition, will be deemed a statement of non-opposition, and shall result in a recommendation that this action be dismissed.

Dated: October 6, 2015

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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