1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 CHARLES BARKSDALE, No. 2:15-cv-0964 AC P (TEMP) 12 Petitioner. 13 v. ORDER AND 14 PONCE, Warden, FINDINGS AND RECOMMENDATIONS 15 Respondent. 16 17 Petitioner is a federal prisoner proceeding pro se with a habeas corpus petition filed 18 pursuant to 28 U.S.C. § 2241. On October 5, 2015, respondent filed a motion to dismiss the 19 petition. Petitioner had not opposed or otherwise responded to the motion, so on November 12, 20 2015, the court ordered petitioner to show cause in writing within twenty-one days why this court 21 should not grant the pending motion to dismiss the petition. The court cautioned petitioner that 22 his failure to file an opposition would result in a recommendation that this action be dismissed. 23 That twenty-one day period has now expired, and petitioner has not opposed respondent's motion 24 to dismiss or responded to the court's order. 25 Accordingly, IT IS HEREBY ORDERED that the Clerk of the Court is directed to 26 randomly assign a United States District Judge to this action. 27 IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice 28 pursuant to Federal Rule of Civil Procedure 41(b). 1

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being served with these findings and recommendations, any party may file written objections with the court and serve a copy on all parties. Such a document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Any response to the objections shall be filed and served within fourteen days after service of the objections. The parties are advised that failure to file objections within the specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991). DATED: January 6, 2016 auson Clane UNITED STATES MAGISTRATE JUDGE