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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID SWANK PRINCE,  
Petitioner,  
v.  
MICHAEL RAMSEY,  
Respondent.

No. 2: 20-cv-1962 TLN KJN P

ORDER

Petitioner is proceeding without counsel with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. For the reasons stated herein, the June 29, 2021 findings and recommendations recommending that this action be dismissed for petitioner’s failure to prosecute are vacated.

On April 19, 2021, the undersigned ordered petitioner to inform the court within thirty days whether he intended to raise the claims raised in his pending state appeal in the instant action. (ECF No. 21.) If petitioner intended to raise these unexhausted claims, the undersigned ordered petitioner to file a motion to stay this action pending the exhaustion of these unexhausted claims and, if appropriate, an amended petition. (Id.) Thirty days passed and petitioner did not respond to the April 19, 2021 order.

Accordingly, on May 27, 2021, the undersigned ordered petitioner to show cause within twenty-one days why this action should not be dismissed for his failure to prosecute. (ECF No.

1 22.) Twenty-one days passed and petitioner did not respond to the May 27, 2021 order.  
2 Accordingly, on June 29, 2021, the undersigned recommended that this action be dismissed for  
3 petitioner's failure to prosecute. (ECF No. 23.) The findings and recommendations granted  
4 petitioner fourteen days to file objections. (Id.)


5 Fourteen days passed and petitioner did not file objections to the June 29, 2021 findings  
6 and recommendations. However, on July 21, 2021, petitioner filed a motion for an extension of  
7 time. (ECF No. 24.) Petitioner alleges that he is homeless and moving almost daily. (Id.)  
8 Petitioner alleges that he has general delivery and intends to meet court deadlines. (Id.)

9 Good cause appearing, the June 29, 2021 findings and recommendations are vacated.  
10 Petitioner is granted thirty days from the date of this order to inform the court how he intends to  
11 proceed and to file an amended petition, if appropriate, as discussed in the April 19, 2021 order.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The June 29, 2021 findings and recommendations (ECF No. 23) are vacated;
- 14 2. Petitioner's July 21, 2021 motion for an extension of time (ECF No. 24) is granted;  
15 petitioner is granted thirty days from the date of this order to inform the court how he  
16 intends to proceed, as discussed in the April 19, 2021 order;
- 17 3. The Clerk of the Court is directed to re-serve petitioner with the April 19, 2021 order  
18 (ECF No. 21).

19 Dated: July 26, 2021

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22 KENDALL J. NEWMAN  
23 UNITED STATES MAGISTRATE JUDGE

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