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4 IN THE UNITED STATES DISTRICT COURT  
5 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
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7 KLEE CHRISTOPHER ORTHEL,

No. C 10-03612 SI

8 Petitioner,

**ORDER RE: MOTION TO DISMISS**

9 v.

10 JAMES A. YATES,

11 Respondent.  
12 \_\_\_\_\_/

13 Respondent James A. Yates's motion to dismiss is currently scheduled for hearing on February  
14 18, 2011. On February 14, 2011, respondent filed a Request To Reschedule or Vacate Hearing Date.  
15 Doc. 13. Additionally, the parties have agreed to hold the motion to dismiss in abeyance until counsel  
16 for petitioner receives and reviews petitioner's prison mental health records. Therefore, the Court  
17 VACATES the February 18 hearing and ORDERS further briefing on the motion to dismiss. Petitioner  
18 shall file a supplemental opposition brief **30 days after counsel receives the requested health**  
19 **records.**<sup>1</sup> Respondent shall file a supplemental reply brief, if any, **21 days later.** Respondent's motion  
20 is held in abeyance. A new hearing may be scheduled at a later date.  
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22 **IT IS SO ORDERED.**

23 Dated: February 15, 2011

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25 \_\_\_\_\_  
26 SUSAN ILLSTON  
27 United States District Judge

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27 <sup>1</sup> Petitioner also suggests that the Court order respondent to provide the requested records.  
28 If petitioner has not received the record by **March 27, 2011**, petitioner may request the assistance of the  
Court to obtain the records.