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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JAVIER PASTRANA,)	1:08-cv-01820-OWW-SMS-HC
)	
Petitioner,	)	ORDER ADOPTING FINDINGS AND
	)	RECOMMENDATIONS (DOCS. 1, 25)
)	
v.	)	ORDER DISMISSING PETITIONER'S
	)	THIRD AND FOURTH CLAIMS
KATHLEEN ALLISON, Warden,	)	CONCERNING PAROLE SUITABILITY
	)	WITHOUT LEAVE TO AMEND FOR
Respondent.	)	FAILURE TO STATE A CLAIM
	)	COGNIZABLE IN A PROCEEDING
	)	PURSUANT TO 28 U.S.C. § 2254
	)	(DOC. 1)

ORDER DENYING THE PETITION WITH
RESPECT TO PETITIONER'S FIRST,
SECOND, AND FIFTH CLAIMS (DOC. 1)

ORDER DECLINING TO ISSUE A
CERTIFICATE OF APPEALABILITY AND
DIRECTING ENTRY OF JUDGMENT FOR
RESPONDENT

Petitioner is a state prisoner proceeding pro se with a
petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.
The matter has been referred to the Magistrate Judge pursuant to
28 U.S.C. § 636(b)(1) and Local Rules 302 and 304.

On March 4, 2011, the Magistrate Judge filed findings and
recommendations in which it was recommended that the petition for
writ of habeas corpus be denied with respect to Petitioner's

1 first, second, and fifth claims, which concerned alleged
2 infringement of Petitioner's rights to due process of law and
3 protection from ex post facto laws based on the BPH's
4 consideration of the facts of the offense, an alleged violation
5 of Petitioner's plea agreement, and the alleged involuntariness
6 of Petitioner's plea to the commitment offense. It was further
7 recommended that with respect to Petitioner's third and fourth
8 claims concerning a finding of unsuitability for parole and the
9 evidence supporting the findings, the petition be dismissed
10 without leave to amend for failure to state a due process claim
11 cognizable in a proceeding pursuant to 18 U.S.C. § 2254.
12 Finally, it was recommended that the Court decline to issue a
13 certificate of appealability.

14 The findings and recommendations were served on all parties
15 on the same date and informed the parties that objections could
16 be filed within thirty (30) days of service.

17 On May 31, 2011, Petitioner filed timely objections to the
18 findings and recommendations. On June 13, 2011, Respondent filed
19 a timely reply to Petitioner's objections.

20 In accordance with the provisions of 28 U.S.C. § 636
21 (b) (1) (C), this Court has conducted a *de novo* review of the case.
22 The undersigned has carefully reviewed the entire file and has
23 considered the objections and the reply to the objections; the
24 undersigned has determined there is no need to modify the
25 findings and recommendations based on the points raised in the
26 objections and reply. The Court finds that the findings and
27 recommendations are supported by the record and proper analysis.

28 Accordingly, it is ORDERED that:

