IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

QUOC XUONG LUU

Petitioner, No. CIV-08-2630 JAM KJM P

vs.

D.K. SISTO, et al.

Respondents. ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On September 7, 2010, the magistrate judge filed findings and recommendations herein which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within twenty-one days. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed September 7, 2010, are adopted in full;

2. Petitioner's motion to set aside the court's order of amended petition is denied as moot;

3. Petitioner's motion for summary judgment is denied; and

4. The court declines to issue the certificate of appealability referenced in 28 U.S.C. § 2253.

DATED: January 31, 2011

/s/ John A. Mendez
UNITED STATES DISTRICT JUDGE