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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

GARY LaBRANCH,

No. CIV S-09-0074-JAM-CMK-P

Petitioner,

vs.

ORDER

JAMES YATES,

Respondent.

_____ /

Petitioner, a state prisoner proceeding pro se, brings this petition 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 Eastern District of California local rules.

On March 4, 2010, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. Objections to the findings and recommendations have been filed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304(f), 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

1 proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed March 4, 2010, are adopted in
4 full;

5 2. Respondent's motion to dismiss (Doc. 15) is denied in part and granted in
6 part;

7 3. Petitioner's challenge to the validity of his 1988 conviction is dismissed as
8 untimely;

9 4. The motion to dismiss the remainder of the petition is denied to the extent
10 the petition raises violations of Petitioner's due process rights; and

11 5. Respondent is directed to file an answer within 30 days of the date of this
12 order.

13 DATED: June 22, 2010

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15 /s/ John A. Mendez
16 UNITED STATES DISTRICT JUDGE
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