

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

EDWARD HOUSTON,

Petitioner,

No. CIV S-09-2645 WBS KJM P

vs.

GARY SWARTHOUT,

Respondent.

ORDER

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, has filed this 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 Rule 302.

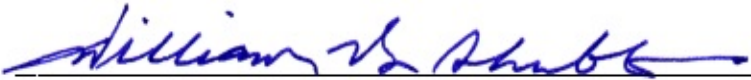
On October 21, 2010, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty-one days. Petitioner has filed objections to the findings 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.

1                   Accordingly, IT IS HEREBY ORDERED that:

- 2                   1. The findings and recommendations filed October 21, 2010, are adopted in full;
- 3                   2. Respondent's June 24, 2010 motion to dismiss (Docket No. 14) is granted;
- 4                   3. Petitioner is given 30 days from the date of this order to file an amended
- 5 petition setting forth facts, if he can do so, showing why he is entitled to equitable tolling

6 DATED: December 2, 2010

7 

8 WILLIAM B. SHUBB  
9 UNITED STATES DISTRICT JUDGE

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26