2 3

1

5

4

6 7

8 9

10

11 12

13

14

Warden,

15

16

17 18

19 20

21 22

24 25

23

26 27

28

UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

Case No. CV 09-1000-SJO (DTB)

Petitioner, ORDER ADOPTING FINDINGS, RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE KELLY HARRINGTON.

Respondent.

PAUL ISAAC MARTINEZ,

VS.

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Petition, all the records and files herein, and the Report and Recommendation of the United States Magistrate Judge. Objections to the Report and Recommendation have been filed herein. Having made a <u>de novo</u> determination of those portions of the Report and Recommendation to which objections have been made, the Court concurs with and adopts the findings, conclusions and recommendations of the Magistrate Judge.

IT THEREFORE IS ORDERED that petitioner's untimely claims are denied (i.e. that portion of Ground Five alleging ineffective assistance of trial counsel for failure to challenge the gang allegations following the preliminary hearing; Grounds Seven though Ten; that portion of Ground Eleven alleging prosecutorial misconduct in failing to disclose the witness; and Grounds Twelve through Sixteen.) Respondent

1	is hereby ordered to file an Answer on the merits to the remaining grounds in the First
2	Amended Petition within forty-five (45) days.
3	June 25, 2011
4	Dated:
5	5. Jame Oten
6	
7	S. JAMES OTERO UNITED STATES DISTRICT JUDGE
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	