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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

GREGORY GRAHAM,  
Petitioner  
  
v.  
S. LANGFORD,  
Respondent.

Case No. CV 16-1729-CAS (GJS)

**ORDER ACCEPTING FINDINGS  
AND RECOMMENDATIONS OF  
UNITED STATES MAGISTRATE  
JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the 28 U.S.C. § 2241 petition (“Petition”) and all pleadings, motions, and other documents filed in this action, the Report and Recommendation of United States Magistrate Judge (“Report”), and Petitioner’s Objections to the Report. Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the Court has conducted a de novo review of those portions of the Report to which objections have been stated.

In his Objections, Petitioner asserts new facts and raises a new argument. He alleges that his state term did not actually expire until December 1, 2016, when his state parole term concluded, and thus, his Count 1 federal sentence continued to run against that state term concurrently until December 1, 2016. Petitioner contends that he should have received “credit” against his Count 1 federal sentence for the period

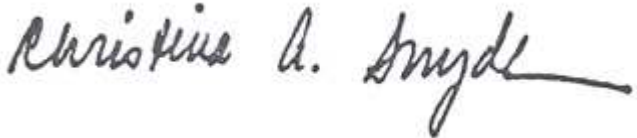
1 of time from his release on state parole and immediate transfer to federal custody  
2 (November 8, 2013) until his state parole concluded on December 1, 2016, and thus:  
3 his Count 1 federal sentence should have been deemed fully satisfied; and the *only*  
4 sentence he should be serving in federal custody is the de-aggregated Count 3  
5 sentence, which he contends commenced running on November 8, 2013, rather than  
6 upon the completion of his Count 1 sentence as ordered.

7 A district court has discretion, but is not required, to consider evidence or  
8 arguments presented for the first time in objections to a report and recommendation.  
9 *See Brown v. Roe*, 279 F.3d 742, 744-45 (9th Cir. 2002); *United States v. Howell*,  
10 231 F.3d 615, 621-22 (9th Cir. 2000). The Court has exercised its discretion to  
11 consider the new factual and legal assertions set forth in the Objections even though  
12 they were not included (or at least not clearly) in Petitioner's prior filings.  
13 Petitioner's assertions and arguments have been reviewed carefully. The Court,  
14 however, concludes that nothing set forth in the Objections or otherwise in the  
15 record for this case affects or alters, or calls into question, the analysis and  
16 conclusions set forth in the Report.

17 Having completed its review, the Court accepts the findings and  
18 recommendations set forth in the Report. Accordingly, **IT IS ORDERED** that: (1)  
19 the Petition is DENIED; and (2) Judgment shall be entered dismissing this action  
20 with prejudice.

21 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

22  
23 DATED: July 24, 2017



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25 CHRISTINA A. SNYDER  
26 UNITED STATES DISTRICT JUDGE  
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