



1 IT IS ORDERED that Judgment be entered: (1) accepting this Report and
2 Recommendation; (2) denying Respondent's Motion to Dismiss as moot; and (3)
3 directing that Judgment be entered denying the Petition and dismissing this action
4 without prejudice to Petitioner's filing a new petition after the challenged judgment
5 of conviction becomes final. If and when he returns to federal court, Petitioner
6 should not file an "amended petition" in this action. Rather, he should file a new
7 federal habeas petition..

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10 DATED: May 2, 2012


11 HONORABLE PHILIP S. GUTIERREZ
12 United States District Judge

13 Prepared by:

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16 HONORABLE OSWALD PARADA
17 United States Magistrate Judge