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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDRE FLOYD,

CV F 03-6155 OWW DLB HC

Petitioner,

ORDER VACATING ORDER ADOPTING
FINDINGS AND RECOMMENDATIONS,
VACATING ENTER OF JUDGMENT, AND
GRANTING PETITIONER SIXTY DAY
EXTENSION OF TIME TO FILE
OBJECTIONS

v.

A.K. SCRIBNER,

Respondent.

[Docs. 40, 41, 42]

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.¹

On April 20, 2006, the Magistrate Judge issued Findings and Recommendations recommending that the instant petition for writ of habeas corpus be denied. The Recommendation stated that any objections were due within thirty days from the date of service. Petitioner did not file timely objections. Therefore, the Findings and Recommendations were adopted in full and judgment was entered in favor of Respondent on May 31, 2006. (Court Docs. 40, 41.)

However, on May 30, 2006, Petitioner filed a motion for an extension of time to file

¹ On June 5, 2006, this action was reassigned to the undersigned due to the senior status of Judge Robert E. Coyle. (Court Doc. 43.)

1 objections to the Findings and Recommendations.² (Court Doc. 42.)

2 As is apparent from the Court's docket entries, the order adopting the Findings and
3 Recommendations was entered in the docket system prior to the entry of Petitioner's motion for
4 an extension of time. Accordingly, the Court will vacate the order adopting the Findings and
5 Recommendation and entry of judgment, and grant Petitioner a sixty day extension of time.

6 Based on the foregoing, it is HEREBY ORDERED that:

- 7 1. The order adopting the Findings and Recommendations and entry of judgment,
8 filed May 31, 2006, are VACATED; and
- 9 2. Petitioner is granted sixty (60) days from the date of service of this order to file
10 objections to the Findings and Recommendations. IT IS SO ORDERED.

11 **Dated: June 16, 2006**
emm0d6

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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² Pursuant to the Findings and Recommendations, objections were due on or before May 22, 2006. Although Petitioner's motion for an extension of time was filed on May 30, 2006, it was dated May 21, 2006, and under the mailbox rule is deemed filed as of that date.