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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOWARD ALLY,)	1:06-CV-00414 AWI JMD HC
)	
Petitioner,)	ORDER ADOPTING FINDINGS AND RECOMMENDATION
)	[Doc. #16]
v.)	ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS
)	
KATHY MENDOZA-POWERS,)	ORDER DIRECTING CLERK OF COURT TO ENTER JUDGMENT
)	
Respondent.)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

The Magistrate Judge issued a [Findings and Recommendation](#) On September 19, 2008, recommending that the petition for writ of habeas corpus be DENIED with prejudice. The Magistrate Judge further recommended that the Clerk of Court be DIRECTED to enter judgment. The Findings and Recommendation was served on all parties and contained notice that any objections were to be filed within thirty (30) days of the date of service of the order.

On October 7, 2008, the Court found that the Petitioner’s CDC number had been incorrectly listed. The Findings and Recommendation was re-served on Petitioner and the deadline to file objections was extended to thirty (30) days from the date of service of that order.

On November 6, 2008, Petitioner filed [objections](#) to the Findings and Recommendation. In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a *de novo* review of the case. The crime was committed in a cruel fashion, largely because of its calculated

1 manner and trivial reason. The BPH was concerned over the lack of insight displayed by Petitioner
2 at the hearing, as well as his lack of self-help, and his testimony at the hearing was sufficient to
3 justify this concern. The commitment offense and the lack of insight into the crime displayed by
4 Petitioner constitutes “some of evidence” to support the BPH’s decision that Petitioner poses an
5 unreasonable risk of danger to the public if released. See Rose v. Kane, 270 Fed.App’x. 610, 611-12
6 (9th Cir. 2008); Irons v. Carey, 505 F.3d 846, 851 (9th Cir. 2007); Sass v. California Bd. of Prison
7 Terms, 461 F.3d 1123, 1128 (9th Cir. 2006); In re Shauptis, 44 Cal.4th 1241, 1260-61 (2008).

8 Having carefully reviewed the entire file and having considered the objections, the Court
9 concludes that the Magistrate Judge’s Findings and Recommendation is supported by the record and
10 proper analysis, and there is no need to modify the Findings and Recommendation based on the
11 points raised in the objections.

12
13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The Findings and Recommendation issued September 19, 2008, is ADOPTED IN
15 FULL;
- 16 2. The Petition for Writ of Habeas Corpus is DENIED with prejudice;
- 17 3. The Clerk of Court is DIRECTED to enter judgment; and
- 18 4. A certificate of appealability is not necessary as the instant petition challenged the
19 denial of parole. See Rosas v. Nielsen, 428 F.3d 1229, 1231-32 (9th Cir. 2005); White
20 v. Lambert, 370 F.3d 1002, 1010-13 (9th Cir. 2004).

21 .
22 IT IS SO ORDERED.

23 **Dated: January 28, 2009**

24 **/s/ Anthony W. Ishii**
CHIEF UNITED STATES DISTRICT JUDGE