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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WESLEY W. HUNTER,)	1:07-CV-00674 AWI GSA HC
)	
Petitioner,)	ORDER ADOPTING FINDINGS AND RECOMMENDATION
)	[Doc. #19]
v.)	
)	ORDER DENYING PETITION FOR WRIT OF HABEAS CORPUS
ANTHONY HEDGPETH,)	
)	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.

On October 31, 2008, the Magistrate Judge issued a [Findings and Recommendation](#) that recommended the petition be DENIED on the merits and for violating the statute of limitations. 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 November 25, 2008, Petitioner filed [objections](#) to the Findings and Recommendation. Petitioner first alleges that his petition was timely filed. In support of his claim that he timely filed his federal petition, he now argues he should be entitled to equitable tolling for time he was in

1 administrative segregation, out to court, in transit, or deprived of his property. The Court will not
2 address these arguments because the petition, for the reasons stated by the Magistrate Judge, is
3 clearly without merit and will be denied on that basis. The court has reviewed Exhibits M, N, and O.
4 The only evidence before the court indicates that Petitioner received the Rules Violation Report on
5 April 2, 2004, more than 24 hours prior to the April 4, 2004 conclusion of Petitioner's hearing.

6 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a *de*
7 *novo* review of the case. Having carefully reviewed the entire file and having considered the
8 objections, the Court concludes that the Magistrate Judge's Findings and Recommendation is
9 supported by the record and proper analysis.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The Findings and Recommendation issued October 31, 2008, is ADOPTED IN FULL;
- 12 2. The Petition for Writ of Habeas Corpus is DENIED;
- 13 3. The Clerk of Court is DIRECTED to enter judgment; and
- 14 4. As the target of Petitioner's habeas petition is an administrative disciplinary decision, not a
15 state court proceeding, a certificate of appealability is not necessary. Rosas v. Nielsen, 428 F.3d
16 1229, 1232 (9th Cir.2005).

17
18 IT IS SO ORDERED.

19 **Dated: February 14, 2009**

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