IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF CALIFORNIA

MARIO CUMMINGS,	)	**07-cv-1612 AWI WMW HC**
	)	
Petitioner,	)	**ORDER ADOPTING**
v.	)	**FINDINGS AND**
	)	**RECOMMENDATIONS,**
JOHN DUVEY,	)	**GRANTING RESPONDENT'S**
	)	**MOTION TO DISMISS, AND**
Respondent.	)	**DISMISSING PETITION**
	)	
_____	)	[Doc. 9,11]

Petitioner, a state prisoner, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 . The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 72-302.

On November 6, 2008, the Magistrate Judge filed findings and recommendations that recommended respondent's motion to dismiss be granted and the petition be dismissed for Petitioner's failure to exhaust state remedies. These findings and recommendations were served on the parties and contained notice to the parties that any objections to the findings and recommendations were to be filed within thirty days. No party filed objections.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)C) this court has conducted a de novo review of this case. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). Having carefully reviewed the entire file, the court finds the findings and

recommendations to be supported by the record and by proper analysis.

Based on the foregoing, it is HEREBY ORDERED that:

1. The findings and recommendations issued by the Magistrate Judge on November 6, 2008, are adopted in full;
2. Respondent's motion to dismiss is GRANTED;
3. The petition for writ of habeas corpus is DISMISSED without prejudice for failure to exhaust state judicial remedies; and
4. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: January 16, 2009 **/s/ Anthony W. Ishii**
CHIEF UNITED STATES DISTRICT JUDGE