

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA**

Petitioner is a state prisoner proceeding pro se on a petition for writ of habeas corpus pursuant to 28 U.S.C. Section 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 October 28, 2008, the court entered findings and recommendations recommending that this action be dismissed for Petitioner's failure to obey the court's order to pay the required filing fee. On November 7, 2008, Petitioner filed objections to the findings and recommendations. In his objections, Petitioner explains that he did mail his filing fee to this court, and provides a copy of the receipt documenting his payment on October 9, 2008.

Accordingly, IT IS HEREBY ORDERED as follows:

- 1) the findings and recommendations entered October 28, 2008, are VACATED;
- 2) the Clerk of the Court is directed to credit Petitioner with payment of the filing fee in this case.

IT IS SO ORDERED.

Dated: January 22, 2009

/s/ William M. Wunderlich
UNITED STATES MAGISTRATE JUDGE