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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

GILBERTO LEON,

1:09-cv-00445-AWI-DLB (HC)

Petitioner,

ORDER ADOPTING FINDINGS AND
RECOMMENDATION, DENYING
RESPONDENT’S MOTION TO DISMISS THE
PETITION AS UNTIMELY, AND REFERRING
MATTER BACK TO MAGISTRATE JUDGE
FOR FURTHER PROCEEDINGS

v.

JAMES D. HARTLEY, Warden,

Respondent.

[Docs. 15 & 18]

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

On July 10, 2009, the Magistrate Judge issued [Findings and Recommendation](#) that the Motion to Dismiss be DENIED. This 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. Over thirty (30) days have passed and no party has 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 the case. Having carefully reviewed the entire file, the Court finds that the Findings and Recommendation is supported by the record and proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation issued July 10, 2009, is ADOPTED IN FULL;

- 1 2. The Motion to Dismiss is DENIED; and,
2 3. The matter is referred back to the Magistrate Judge for further proceedings.

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4 IT IS SO ORDERED.

5 **Dated: September 11, 2009**

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

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