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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSE AYON,		1:09-cv-00843-LJO-MJS (HC)
	Petitioner,	ORDER ADOPTING FINDINGS AND RECOMMENDATION
	v.	ORDER DENYING RESPONDENT'S MOTION TO DISMISS AND PETITIONER'S MOTION TO AMEND THE PLEADINGS
JAMES D. HARTLEY, Warden,		ORDER REFERRING ACTION BACK TO MAGISTRATE JUDGE
	Respondent.	[Docs. 13, 14 and 16]

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

On June 24, 2010, Respondent filed a motion to dismiss for failure to exhaust state judicial remedies. (Mot. to Dismiss, ECF No. 13.) In response, Petitioner filed a motion to amend his petition for Writ of Habeas Corpus on July 15, 2010. (Mot. to Amend, ECF No. 14.) On September 7, 2010, the Magistrate Judge issued a Findings and Recommendation that the Motion to Dismiss and Motion to Amend be DENIED. (Findings and Recommendation, ECF No. 16.) This Findings and Recommendation was served on all parties with notice that any objections were to be filed within thirty (30) days of the date of service of the order. Respondent filed objections on September 30, 2010. (Objections, ECF No. 17.)

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, including

1 the objections to the Findings and Recommendation, the Court concludes that the
2 Magistrate Judge's Findings and Recommendation is supported by the record and proper
3 analysis.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Respondent's motion to dismiss for failure to exhaust judicial remedies is
6 DENIED;
- 7 2. Petitioner's motion to amend the pleadings is DENIED; and
- 8 3. This action is REFERRED to the assigned Magistrate Judge for further
9 proceedings.

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12 IT IS SO ORDERED.

13 **Dated: October 22, 2010**

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE