

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

JAMAL WHITE,

1:09-cv-01013-OWW-SMS (HC)

Petitioner,

ORDER ADOPTING FINDINGS AND  
RECOMMENDATION, DISMISSING  
PETITION FOR WRIT OF HABEAS CORPUS,  
DIRECTING CLERK OF COURT TO  
TERMINATE ACTION, AND DECLINING TO  
ISSUE A CERTIFICATE OF APPEALABILITY

v.

JOHN C. MARSHALL,

Respondent.

[Doc. 33]

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 9, 2009, the Magistrate Judge issued Findings and Recommendation that the Petition for Writ of Habeas Corpus be DISMISSED. 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 9, 2009, is ADOPTED IN FULL;
2. The Petition for Writ of Habeas Corpus is DISMISSED;

3. The Clerk of the Court is DIRECTED to terminate this action; and

4. The court declines to issue a Certificate of Appealability. 28 U.S.C. § 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (in order to obtain a COA, petitioner must show: (1) that jurists of reason would find it debatable whether the petition stated a valid claim of a denial of a constitutional right; and (2) that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473, 484 (2000)). In the present case, the Court does not find that jurists of reason would not find it debatable whether the petition was properly dismissed for failure to state a cognizable claim under 28 U.S.C. § 2244. Petitioner has not made the required substantial showing of the denial of a constitutional right. IT IS SO ORDERED.

**Dated: July 1, 2010**

/s/ Oliver W. Wanger  
UNITED STATES DISTRICT JUDGE