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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CARLOS MONTES,

1:09-cv-01214-SMS (HC)

Petitioner,

ORDER DIRECTING RESPONDENT TO
SUBMIT SUPPLEMENTAL BRIEFING

v.

DERRAL G. ADAMS, Warden

Respondent.

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

On November 12, 2009, Respondent filed a motion to dismiss the petition for failure to state a cognizable claim. (Court Doc. 11.) Petitioner filed an opposition on December 23, 2009. (Court Doc. 14.)

On February 18, 2010, the undersigned issued Findings and Recommendations to grant Respondent’s motion to dismiss, but Petitioner be given leave to file an amended petition.

On March 26, 2010, Respondent filed objections to the Findings and Recommendation and argues that because Petitioner has had an initial parole consideration hearing, any future good-time custody credits do not have an impact on the duration of his confinement. (Court Doc. 21.) Petitioner filed a response to the objections on April 12, 2010. (Court Doc. 23.)

The Court finds that supplemental briefing is necessary to resolve Respondent’s contention raised in his objections. More specifically, Respondent does not cite solid authority

1 and/or evidence that any future good-time credits will not have a future impact on Petitioner's
2 sentence given that he has already served his minimum eligible parole date and has received an
3 initial parole hearing. Accordingly, Respondent shall submit a supplemental brief addressing this
4 issue in further detail.

5 Based on the foregoing, it is HEREBY ORDERED that:

- 6 1. Within twenty (20) days from the date of service of this order, Respondent shall
7 submit a supplemental brief; and
- 8 2. Within twenty (20) days after Respondent files his supplemental brief, Petitioner
9 may file a response.

10 IT IS SO ORDERED.

11 **Dated:** May 5, 2010

/s/ Sandra M. Snyder
UNITED STATES MAGISTRATE JUDGE