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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARK JAMES TAYLOR,)	1:09-cv-01876-OWW-SKO-HC
)	
Petitioner,)	ORDER ADOPTING FINDINGS AND
)	RECOMMENDATIONS TO DISMISS STATE
)	LAW CLAIMS AND TO REQUIRE A
v.)	RESPONSE WITH RESPECT TO
)	PETITIONER'S DUE PROCESS CLAIM
JAMES A. YATES,)	(DOCS. 1, 8)
)	
Respondent.)	
)	
)	

Petitioner is a state prisoner proceeding pro se and in forma pauperis with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter has been referred to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 304.

On July 13, 2010, the Magistrate Judge filed findings and recommendations that 1) Petitioner's claims concerning the interpretation of the offense of failure to comply with count procedures, its status as a serious rules violation or as a lesser included offense of the originally charged violation, the extent of discretion entrusted in prison officials under Cal.

1 Code. Regs. tit. 15, § 3017, and any violation of due process of
2 law premised solely on the state constitution be dismissed
3 because they are not cognizable in a proceeding pursuant to 28
4 U.S.C. § 2254; and 2) with respect to Petitioner's claim that his
5 right to due process of law was violated because of the absence
6 of some evidence to support a finding of a violation of the
7 pertinent disciplinary rules, the Respondent should be ordered to
8 file a response to the petition.

9 The findings and recommendations advised that any objections
10 to the findings and recommendations were due within thirty days
11 of service. The findings and recommendations were served on all
12 parties on July 13, 2010. Although the thirty-day period for the
13 filing of objections has passed, no objections have been filed.

14 In accordance with the provisions of 28 U.S.C. § 636
15 (b) (1) (C), this Court has conducted a de novo review of the case.
16 Having carefully reviewed the entire file, the Court finds that
17 the report and recommendations are supported by the record and
18 proper analysis.

19 Accordingly, it is ORDERED that:

20 1. The Findings and Recommendations filed on July 13, 2010,
21 ARE ADOPTED IN FULL; and

22 2. Petitioner's claims concerning the interpretation of the
23 offense of failure to comply with court procedures, its status as
24 a serious rules violation or as a lesser included offense of the
25 originally charged violation, the extent of discretion entrusted
26 in prison officials under Cal. Code. Regs. tit. 15, § 3017, and
27 any violation of due process of law premised solely on the state
28 constitution ARE DISMISSED as not cognizable pursuant to 28

1 U.S.C. § 2254; and

2 3) With respect to Petitioner's claim of a violation of due
3 process of law because of the absence of some evidence to support
4 a finding of a violation of the pertinent disciplinary rules, the
5 matter IS REFERRED back to the Magistrate to order Respondent to
6 file a response. IT IS SO ORDERED.

7 **Dated: September 2, 2010**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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