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7   UNITED STATES DISTRICT COURT

8   EASTERN DISTRICT OF CALIFORNIA

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ISAAC MARTINEZ,   ) 1:11-cv—00215-OWW-SKO-HC
11   )
                 Petitioner,   ) ORDER RE: FINDINGS AND
12   ) RECOMMENDATIONS (DOC. 10)
)
13   v.   ) ORDER DISMISSING WITHOUT LEAVE TO
) AMEND PETITIONER'S CLAIMS IN THE
14 JAMES D. HARTLEY,   ) FIRST AMENDED PETITION THAT ARE
) BASED ON STATE LAW AND CONCERNING
15   Respondent.   ) THE STATE POST-CONVICTION PROCESS
) (DOC. 9)
16 _____)
                                     FINDINGS AND RECOMMENDATIONS
17   TO REFER THE REMAINING CLAIMS IN
                                     THE FIRST AMENDED PETITION BACK
18   TO THE MAGISTRATE JUDGE

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20   Petitioner is a state prisoner proceeding pro se and in

21 forma pauperis with a petition for writ of habeas corpus pursuant

22 to 28 U.S.C. § 2254. The matter was referred to the Magistrate

23 Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and

24 304.

25   On August 1, 2011, the Magistrate Judge filed findings and

26 recommendations to dismiss without leave to amend Petitioner's

27 claims based on state law and his claim concerning delay in the

28 post-conviction processes of the state court. It was further

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1 recommended that upon dismissal of the claims that are not

2 cognizable, the proceeding be referred back to the Magistrate

3 Judge for further proceedings.

4 The findings and recommendations were served on all parties

5 on the same date and informed the parties that objections could

6 be filed within thirty days. Although over thirty days have

7 passed, no objections have been filed.

8 In accordance with the provisions of 28 U.S.C. § 636

9 (b)(1)(C), this Court has conducted a *de novo* review of the case.

10 Having carefully reviewed the entire file, the Court finds that

11 the report and recommendations are supported by the record and

12 proper analysis.

13 Accordingly, it is ORDERED that:

14 1) The Findings and Recommendations filed on August 1, 2011,

15 are ADOPTED IN FULL; and

16 2) Petitioner's claims based on state law and his claim

17 concerning delay in the post-conviction processes of the state

18 court, set forth in the first amended petition, are DISMISSED

19 without leave to amend; and

20 3) The matter is REFERRED back to the Magistrate Judge for
further proceedings. IT IS SO ORDERED.

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Dated: September 12, 2011   **/s/ Oliver W. Wanger**
22   UNITED STATES DISTRICT JUDGE

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