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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BRIAN KEITH BRIM,	)	1:11-cv-01293-AWI-JLT HC
	)	
Petitioner,	)	ORDER ADOPTING FINDINGS AND
	)	RECOMMENDATIONS
	)	(Doc. 15)
v.	)	
	)	ORDER DENYING RESPONDENT'S MOTION
	)	TO DISMISS PETITION (Doc. 12)
H. A. RIOS, JR., Warden,	)	
	)	ORDER REFERRING CASE BACK TO
Respondent.	)	UNITED STATES MAGISTRATE JUDGE FOR
	)	FURTHER PROCEEDINGS

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Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On November 1, 2011, Respondent filed a motion to dismiss the instant petition on the grounds that the Court lacks jurisdiction under 28 U.S.C. § 2241 to consider the challenge by a federal petitioner serving a life sentence to a prison disciplinary proceeding. (Doc. 12). On December 8, 2011, the Magistrate Judge assigned to the case filed a Findings and Recommendations recommending that Respondent's motion to dismiss be denied. (Doc. 15). The Findings and Recommendations was served on all parties and contained notice that any objections were to be filed within twenty days from the date of service of that order. On December 28, 2011, Respondent filed

1 objections to the Magistrate Judge's Findings and Recommendations. (Doc. 16). On January 12,  
2 2012, Petitioner filed a reply to Respondent's objections. (Doc. 17).

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has conducted a *de*  
4 *novo* review of the case. Having carefully reviewed the entire file, including Respondent's  
5 objections, the Court concludes that the Magistrate Judge's Findings and Recommendation is  
6 supported by the record and proper analysis. Respondent has cited no binding authority that  
7 deprives this court of jurisdiction under Section 2241 to hear a federal prisoner's due process  
8 challenges to a disciplinary hearing if the petitioner is serving a life sentence and/or cannot earn  
9 good-time credits. Respondent's objections present no grounds for questioning the Magistrate  
10 Judge's analysis.

11 Moreover, no certificate of appealability is required because the detention complained of  
12 does not arise out of a process issued by a state court and it is not a proceeding under 28 U.S.C. §  
13 2255. Forde v. U.S. Parole Commission, 114 F.3d 878, 879 (9th Cir. 1997).

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The Findings and Recommendations issued December 8, 2011 (Doc. 15), is ADOPTED IN  
16 FULL;
- 17 2. Respondent's motion to dismiss (Doc. 12), is DENIED; and,
- 18 3. The case is referred back to the United States Magistrate Judge assigned to this case for  
19 further proceedings.

20 IT IS SO ORDERED.

21 Dated: February 4, 2012

  
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CHIEF UNITED STATES DISTRICT JUDGE

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