

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VERNELL SMITH,

Petitioner,

v.

ON HABEAS CORPUS,

Respondent.

1:12-cv-01251 AWI MJS HC

**ORDER ADOPTING FINDINGS AND
RECOMMENDATION GRANTING MOTION
TO DISMISS WITH LEAVE TO AMEND**

(Doc. 11)

ON HABEAS CORPUS,

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

On May 17, 2013, the Magistrate Judge issued a Findings and Recommendation that the motion to dismiss be granted, and Petitioner be provided thirty (30) days from the date of the order adopting to file an amended petition for writ of habeas corpus to attempt to plead a cognizable federal claim. This Findings and Recommendation was served on all parties with notice that any objections were to be filed within thirty (30) days of the date of service of the order. Petitioner did not file objections; instead he filed a first amended petition on June 14, 2013.

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

1 Court concludes that the Magistrate Judge's Findings and Recommendation is
2 supported by the record and proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The Findings and Recommendation issued May 17, 2013, is ADOPTED;
5 2. The Motion to Dismiss is GRANTED; and
6 3. The matter is referred to the Magistrate Judge for further action in light of
7 this order.

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9 IT IS SO ORDERED.

10 Dated: June 26, 2013


11 SENIOR DISTRICT JUDGE

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