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

10 **VERNELL SMITH,**

11 Petitioner,

12 **v.**

13 **ON HABEAS CORPUS,**

14 Respondent.

1:12-cv-01251 AWI MJS HC

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

(Doc. 11)

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

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

27 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has
28 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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10 IT IS SO ORDERED.

11 Dated: June 26, 2013



12 SENIOR DISTRICT JUDGE
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