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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JERRY GRANT FRYE,

 Petitioner,

 v.

WARDEN, San Quentin State Prison,

 Respondent.

No. 2:99-cv-00628-KJM-CKD

DEATH PENALTY CASE

ORDER

Petitioner Jerry Grant Frye, a state prisoner under sentence of death, seeks habeas corpus relief under 28 U.S.C. § 2254. In a previous motion, he asked the court to reconsider the assigned magistrate judge’s decision to issue amended findings and recommendations (F&Rs). ECF No. 663. The magistrate judge issued amended F&Rs after petitioner and respondent both objected to the original F&Rs. The court granted petitioner’s previous motion in part and denied it in part. ECF No. 669. The motion was denied to the extent petitioner challenged the magistrate judge’s authority to *sua sponte* amend or withdraw F&Rs after objections are filed. Petitioner now seeks reconsideration of that portion of this court’s order. ECF No. 673. Respondent has not opposed the motion, and otherwise stands by its objections to the magistrate judge’s original, unamended F&Rs. ECF No. 672.

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Respondent is directed to provide a statement on its position, if any it has, on the authority of the assigned magistrate judge to issue amended F&Rs. This statement shall be filed within fourteen days. The court reserves the right to set a limited hearing on this question after respondent's statement is filed.

IT IS SO ORDERED.

DATED: April 19, 2016


UNITED STATES DISTRICT JUDGE