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

CARLOS BURNETT,

Petitioner,

No. CIV S-01-0481 JAM DAD P

vs.

KEN CLARK, Warden,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding through appointed counsel, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On October 15, 2008, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Respondent has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the

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1 entire file, the court finds the findings and recommendations to be supported by the record and by  
2 proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed October 15, 2008, are adopted in full;
- 5 2. Respondent's March 24, 2008 motion to dismiss (Docket No. 106) is denied;

6 and

7 3. Respondent shall file an answer to petitioner's habeas petition within sixty  
8 days. See Rule 4, Fed. R. Governing §2254 cases. Respondent's answer shall be accompanied  
9 by all transcripts and other documents relevant to the issues presented in the petition. See Rule  
10 5, Fed. R. Governing §2254 Cases.

11 DATED: 2/13/2009

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13 /s/ John A. Mendez

14 UNITED STATES DISTRICT JUDGE  
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