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

DWAYNE ANTHONY SULLIVAN,

Petitioner,

No. CIV S-02-1148 MCE KJM P

vs.

SCOTT M. KERNAN, Acting Warden,

Respondents.

ORDER

\_\_\_\_\_ /  
Petitioner is a state prison inmate proceeding with counsel in a habeas action challenging his robbery conviction and the resulting three strikes sentence.

The original petition was filed by petitioner acting in pro per on May 28, 2002. The court appointed the Federal Defender's Office to represent petitioner and then granted counsel's request for a stay to permit the exhaustion of additional claims. An amended petition filed after the stay was lifted contained three claims; the original petition is comprised of at least seven claims. Shortly after the amended petition was filed, new counsel was substituted for petitioner.

On September 16, 2009, this court issued findings and recommendations which addressed the three claims in the amended petition. Counsel for petitioner has now filed a

1 motion to vacate the findings and recommendations or, in the alternative, for an extension of  
2 time in which to file objections. He argues that petitioner did not authorize counsel to omit his  
3 original claims from the new petition.

4 IT IS HEREBY ORDERED that:

5 1. Respondent is directed to file his response to the motion to vacate the findings  
6 and recommendations within thirty days of the date of this order; petitioner's reply, if any, is due  
7 within fifteen days of the date the response is filed; and

8 2. Petitioner's request for an extension of time in which to file objections (docket  
9 no. 46) is granted; if objections are necessary, they are due within twenty days of the resolution  
10 of the motion to vacate the findings and recommendations.

11 DATED: November 9, 2009.

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13 U.S. MAGISTRATE JUDGE

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