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

MARION C. WOLFE, JR.,

Petitioner,

No. CIV S-02-1958 FCD EFB P

vs.

EDWARD D. ALAMERIDA, et al.,

Respondents.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed an 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 December 5, 2007, 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. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. The magistrate judge correctly found that petitioner’s proposed claim 22 did not relate back and proposed claim 25 did relate back to the original petition. However, the magistrate judge incongruously recommended that

1 the motion to file an amended petition with respect to claim 25 be denied and granted with
2 respect to proposed claim 22. The court finds the magistrate judge's analysis to be correct and
3 that the concluding recommendation is a result of clerical error.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The findings and recommendations filed December 5, 2007, are adopted in
6 full;

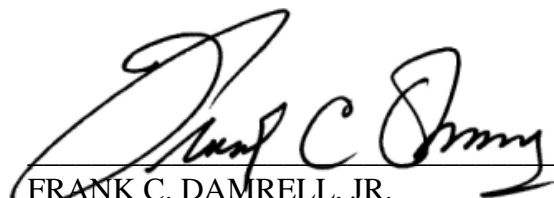
7 2. Petitioner's motion to file a second amended petition is granted in part, and
8 denied in part, as follows:

9 a. The motion is granted with respect to claim 25, and petitioner may
10 file an amended petition containing this claim;

11 b. The motion is denied with respect to proposed claims 22, 24, 26
12 and 27; and

13 3. Petitioner already has filed an amended petition, rendering that portion of the
14 magistrate judge's findings and recommendations moot.

15 DATED: February 4, 2008.

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18 FRANK C. DAMRELL, JR.
19 UNITED STATES DISTRICT JUDGE
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