

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

ROBERT EVERETT JOHNSON,

Petitioner,

No. CIV S-05-0385 DFL GGH P

vs.

CLAUDE E. FINN, et. al.,

ORDER VACATING

Respondent.

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_ /

On September 14, 2010, the undersigned issued findings and recommendations pursuant to the United States Court of Appeals for the Ninth Circuit’s instruction to the district court to grant petitioner’s writ of habeas corpus. These findings issued on the presumption that the mandate would issue prior to the time for filing objections and reply. (Doc. 56 at 1, n.1.)

The objection period having passed, respondent now requests that the undersigned vacate its findings pending issuance of a mandate. Respondent states that, as of September 28, 2010, a mandate has not issued; thus, the Court of Appeals has yet to relinquish jurisdiction of this matter. Respondent has also filed a petition for rehearing, making it uncertain when the mandate will issue.

Good cause having been shown, the undersigned will grant respondent’s request.

\\\\\\

