

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

MICHAEL LENOIR SMITH,

Petitioner,

vs.

JAMES YATES, *et al*,

Respondents.

No. 2:06-cv-02072-JKS-KJM

ORDER

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

On August 17, 2007, the Magistrate Judge filed Findings and Recommendations, 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. Petitioner has filed objections to the Findings and Recommendations.

Petitioner's objections fail to address the central issue to the issuance of a preliminary injunction, *i.e.*, the threat of immediate injury. *Associated Gen. Contractors of Calif. v. Coalition of Econ. Equity*, 950 F.3d 1401, 1410 (9th Cir. 1991). Here, as the Magistrate Judge correctly found, the only matter presently pending before the Court is Respondent's motion to dismiss at Docket No. 15, to which Petitioner has filed his opposition (Docket No. 17). Consequently, there is a demonstrated lack of the threat of any immediate injury.

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 entire file, with particular attention to those portions relevant or pertinent to the objections raised, the Court finds the Findings and Recommendations to be supported by the record and by proper analysis.

Accordingly, IT IS HEREBY ORDERED THAT:

1. The Findings and Recommendations filed August 17, 2007, are adopted in full;
2. Petitioner's motion for a preliminary injunction at Docket No. 21 is DENIED, without prejudice.

Dated: February 7, 2008

s/ James K. Singleton, Jr.
JAMES K. SINGLETON, JR.
United States District Judge