

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

SILVERIO REYES MARTINEZ,

Petitioner,

No. CIV S-07-0999 FCD GGH P

vs.

M. EVANS, et al.,

Respondents.

ORDER

\_\_\_\_\_/

Petitioner, a state prisoner proceeding through 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 June 26, 2009, 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.

Respondents have filed objections to the findings and recommendations.

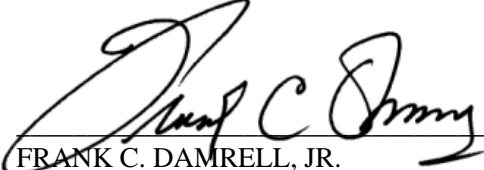
In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1           In the objections, respondent requests that if the court adopts the findings and  
2 recommendations, the court certify the matter of whether petitioner violated the statute of  
3 limitations for interlocutory review to the Ninth Circuit Court of Appeals. Certification of this  
4 issue is not warranted pursuant to 28 U.S.C. § 1292(b).

5           Accordingly, IT IS HEREBY ORDERED that:

- 6           1. The findings and recommendations filed June 26, 2009, are adopted in full;
- 7           2. Respondent's August 4, 2008, reinstated motion to dismiss (no. 17) is denied;
- 8           respondent's request for certification pursuant to 28 U.S.C. § 1292(b) is denied;
- 9           3. Respondent shall file an answer to the petition within thirty days of the date of  
10 this order; petitioner's reply is due thirty days thereafter.

11 DATED: July 24, 2009.

12  
13   
14 FRANK C. DAMRELL, JR.  
15 UNITED STATES DISTRICT JUDGE  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26