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

LESLIE CLOSNER,

Petitioner,

No. CIV S-08-1313 JAM EFB P

vs.

BRIAN BELLEQUE,

Respondent.

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 November 25, 2008, 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. Petitioner filed objections to the findings and recommendations on December 12, 2008, and amended objections on December 29, 2008.

In his amended objections, petitioner apprises the court of In re Burdan, 169 Cal. App. 4th 18 (2008), an opinion of the California Court of Appeal, Third Appellate District, filed December 12, 2008. In Burdan, the petitioner was challenging a denial of parole, and the court

1 found that “a delay of 10 months for an unrepresented prison inmate to file a petition for writ of  
2 habeas corpus in the Court of Appeal, after denial of a similar petition in the superior court, [is  
3 not] unreasonable.” In re Burdan, 169 Cal. App. 4th 18, 31 (2008). Because this opinion may  
4 bear directly on the magistrate judge’s finding that petitioner’s “unexplained 234-day delay  
5 between the state superior court’s denial and the filing of his state appellate court petition was  
6 unreasonable,” the court will order respondent to respond to petitioner’s amended objections.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Petitioner’s amended objections are deemed timely;
- 9 2. Respondent is ordered to file a response to petitioner’s amended objections not  
10 later than February 6, 2009.

11 DATED: January 29, 2009

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13 /s/ John A. Mendez  
14 UNITED STATES DISTRICT JUDGE  
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