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

DION HENRY,

Petitioner,

No. 2:08-cv-2070-MCE-JFM (HC)

vs.

D. K. SISTO, Warden,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding through counsel, 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 October 30, 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. 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. Accordingly, IT IS HEREBY ORDERED that:


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1. The findings and recommendations filed October 30, 2009, are adopted in full;
2. Respondent's January 20, 2009 motion to dismiss is denied;
3. Respondent shall answer the petition within thirty days from the date of any order adopting these findings and recommendations and shall include with the answer any and all transcripts or other documents relevant to the determination of the issues presented in the application that are not already part of the record; and

3. Petitioner's traverse, if any, is due on or before thirty days from the date respondent's answer is filed.

Dated: November 25, 2009



MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE