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

JOSEPH KNIGHT COX,

Petitioner,

No. CIV S-08-2107 LKK KJM P

vs.

JAMES A. YATES,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, 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 May 12, 2010, 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-one days. Respondent has filed objections to the findings and recommendations. In the objections, respondent has raised arguments that were not discussed in its answer.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds that the arguments raised in respondent's objections may alter the

1 outcome of this case as to Section C.1 and the grant of petitioner's application to vacate his
2 sentences on counts 8, 14, and 15. Aside from this section, however, the court finds the findings
3 and recommendations to be supported by the record and by proper analysis.


4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The findings and recommendations filed May 12, 2010, are adopted as to all
6 sections but for C.1 and the grant of petitioner's application to vacate his sentences on counts 8,
7 14, and 15;

8 2. The magistrate judge shall allow petitioner an opportunity to respond to the
9 arguments raised in respondent's objections; and

10 3. The magistrate judge shall issue new findings and recommendations as to
11 Section C.1 in light of the new arguments raised by respondent.

12 DATED: July 28, 2010.

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16 LAWRENCE K. KARLTON
17 SENIOR JUDGE
18 UNITED STATES DISTRICT COURT
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