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

PRESTON L. PHILLIPS,

Petitioner,

No. 2:08-cv-2120 FCD KJN P

vs.

WARDEN ROBERT HOREL,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, 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 Rule 302.

On January 6, 2011, 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. Neither party has filed objections to the findings and recommendations.

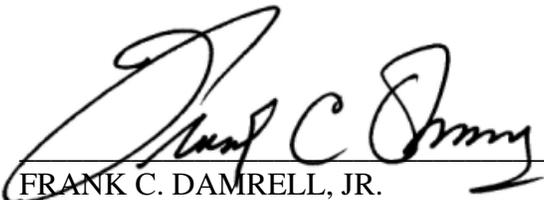
The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

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1. The findings and recommendations filed January 6, 2011, are adopted in full;
2. This action is dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b); and
3. The court declines to issue the certificate of appealability referenced in 28 U.S.C. § 2253.

DATED: February 10, 2011.


FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE