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

STEVEN W. ROSE,

Petitioner,

No. CIV S-08-3012 MCE DAD P

vs.

D.K. SISTO,

Respondent.

ORDER

_____ /

On March 17, 2010, the court adopted in full the magistrate judge’s findings and recommendations, filed February 12, 2010, recommending that respondent’s March 27, 2009 motion to dismiss the habeas petition as unexhausted be granted, and that petitioner’s September 28, 2009 motion for declaratory and injunctive relief be denied. The habeas action was dismissed and judgment was entered. Although the court conducted a de novo review, having construed petitioner’s March 8, 2010 motion for an extension of time as objections to the findings and recommendations, petitioner has filed late objections to the findings and recommendations. In the interest of justice, the court will vacate the March 17, 2010 order and vacate the judgment entered on March 17, 2010.

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

1 file and petitioner's objections to the findings and recommendations, the court finds the findings
2 and recommendations to be supported by the record and by proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The court's March 17, 2010 order (Doc. No. 22) is vacated, and judgment
5 entered on March 17, 2010, is vacated;

6 2. The findings and recommendations filed February 12, 2010, are adopted in
7 full;

8 3. Respondent's March 27, 2009 motion to dismiss the pending habeas petition as
9 unexhausted is granted;

10 4. Petitioner's September 28, 2009 motion for declaratory and injunctive relief is
11 denied; and

12 5. This action is dismissed without prejudice.

13 Dated: April 8, 2010



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15 MORRISON C. ENGLAND, JR.
16 UNITED STATES DISTRICT JUDGE
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