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

RUNAKO MAGEE,

Petitioner,

No. CIV S-09-0047 MCE GGH P

vs.

JAMES WALKER,

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 October 14, 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. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-304, this court has conducted a de novo review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and by proper analysis.

1 Rule 11, Federal Rules Governing Section 2254 Cases, provides that the district
2 court must issue or deny a certificate of appealability when it enters a final order adverse to the
3 applicant. A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the applicant
4 has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).
5 The court must either issue a certificate of appealability indicating which issues satisfy the
6 required showing or must state the reasons why such a certificate should not issue. Fed. R. App.
7 P. 22(b).

8 For the reasons set forth in the magistrate judge’s October 14, 2009, findings and
9 recommendations, petitioner has not made a substantial showing of the denial of a constitutional
10 right. Accordingly, a certificate of appealability should not issue in this action.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The findings and recommendations filed October 14, 2009, are adopted in full;
- 13 2. Respondent’s June 29, 2009, motion to dismiss (no. 15) is granted;
- 14 3. A certificate of appealability is not issued in this action.

15 Dated: December 10, 2009



17 MORRISON C. ENGLAND, JR.
18 UNITED STATES DISTRICT JUDGE