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

JAMES J. NICHOLS,

Petitioner,

No. CIV S-09-0249 FCD GGH P

vs.

M. EVANS,

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 General Order No. 262.

On May 13, 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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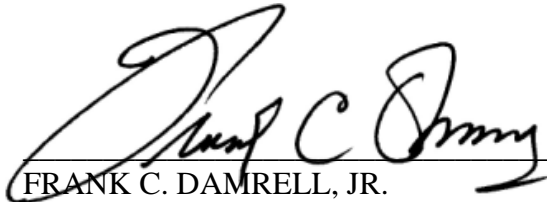
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1. The findings and recommendations filed May 13, 2009, are adopted in full;

2. Respondent's March 27, 2009, request to stay this action pending the Ninth Circuit's decision in Hayward v. Marshall, 512 F.3d 536 (9th Cir. 2008), *reh'g en banc granted*, \_\_\_ F.3d \_\_\_, No. 06-55392 (9th Cir. Filed May 16, 2008) (court file doc. # 13) is denied;

3. Within thirty days of the date of this order, respondent shall file a response to the petition; petitioner's reply is due thirty days thereafter.

DATED: July 14, 2009.

  
FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE