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

LARRY W. KIRK,

No. CIV S-09-0668-CMK-P

Petitioner,

vs.

ORDER

S.M. SALINAS,

Respondent.

\_\_\_\_\_ /

Petitioner, a state prisoner proceeding pro se, brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On October 9, 2009, the court issued an order informing the parties that they may, if all consent in writing, have this case assigned to a United States Magistrate Judge for all purposes while preserving their right to appeal any final judgment directly to the United States Court of Appeals for the Ninth Circuit or, where appropriate, to the United States Court of Appeals for the Federal Circuit. See 28 U.S.C. § 636(c)(1), (3); see also Fed. R. Civ. P. 73(b)(1); E.D. Cal. Local Rule 305(a), (c). The parties were requested to complete and return the consent form within 30 days. Respondent has complied with this request (Doc. 12), but Petitioner has not returned his form indicating whether he consents to jurisdiction of Magistrate

1 Judge or declines such jurisdiction and requests reassignment .

2           The parties are advised that they are free to withhold consent and that doing so  
3 shall not result in any adverse substantive consequences. See § 636(c)(2). If all parties consent  
4 to Magistrate Judge jurisdiction, the action will be assigned to the undersigned for all purposes,  
5 including entry of final judgment. See Local Rule 301 and Local Rule 305(b). If either party  
6 declines to consent, the case will be assigned to a district judge, and the undersigned will  
7 continue to perform all duties as required by Local Rule 302.

8           As the court has not received Petitioner's response to the court's order re consent  
9 or request for reassignment, the Clerk of the Court will be directed to provide Petitioner with the  
10 appropriate form which he shall then complete, indicating either consent or non-consent as he  
11 may choose, and file with the court.

12           Accordingly, IT IS HEREBY ORDERED that:

13           1.       The Clerk of the Court is directed to forward to Petitioner the court's  
14 consent election order; and

15           2.       Petitioner shall complete and file the consent election form within 30 days  
16 of the date of this order.

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18 DATED: May 7, 2010

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21 **CRAIG M. KELLISON**  
22 UNITED STATES MAGISTRATE JUDGE  
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