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

JAMES McELROY,

Petitioner,

No. CIV S-09-2259-GEB-KJN-P

vs.

JAMES HAVILAND, Warden,

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 March 26, 2010, 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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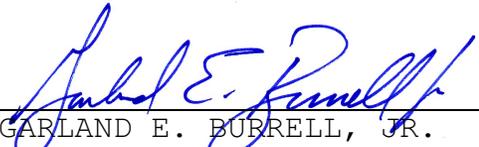
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1. The findings and recommendations filed March 26, 2010, are adopted in full;

and

2. Respondent's February 2, 2010, motion to dismiss (Dkt. No. 10) is denied and respondent shall file an answer to the petitioner within 30 days from the date of this order.

Dated: May 7, 2010

  
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GARLAND E. BURRELL, JR.  
United States District Judge