IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD HERNANDEZ,

Petitioner, No. CIV S-09-2264 MCE GGH P

vs.

J. HARTLEY,

Respondent. FINDINGS & RECOMMENDATIONS

_____/

By order filed September 15, 2009, petitioner's application was dismissed and thirty days' leave to file an amended application was granted. Plaintiff filed a motion for reconsideration of the magistrate judge's order, which was denied by Judge Morrison England, Jr., on October 22, 2009. To date, petitioner has not filed an amended application.

Accordingly, IT IS HEREBY RECOMMENDED that this action be dismissed. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within twenty days after being served with these findings and recommendations, petitioner may file written objections with the court. The document should be captioned "Objections to Magistrate Judge's Findings and Recommendations." Petitioner is advised that failure to file objections within the

specified time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

DATED: February 8, 2010

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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