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

ALFRED KING,

Petitioner,

No. 2:09-cv-2366 FCD KJN P

vs.

JOHN HAVILAND, et al.,

Respondents.

ORDER

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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 Rule 302.

On October 25, 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-one 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 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           Before petitioner can appeal this decision, a certificate of appealability must  
2 issue. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).


3           A certificate of appealability may issue under 28 U.S.C. § 2253 “only if the  
4 applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C.  
5 § 2253(c)(2). The court must either issue a certificate of appealability indicating which issues  
6 satisfy the required showing or must state the reasons why such a certificate should not issue.  
7 Fed. R. App. P. 22(b).

8           For the reasons set forth in the magistrate judge’s October 25, 2010 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 25, 2010, are adopted in full;
- 13           2. Petitioner’s application for a writ of habeas corpus is denied;
- 14           3. A certificate of appealability is not issued in this action.

15 DATED: January 4, 2011.

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19           FRANK C. DAMRELL, JR.  
20           UNITED STATES DISTRICT JUDGE  
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