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

JEFFREY MARK COLE,

Petitioner,

No. CIV S-09-2549 LKK DAD P

vs.

KATHY ALLISON, Acting Warden,

Respondent.

ORDER

_____ /

Petitioner is a state prisoner proceeding pro se with a second amended petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On February 18, 2011, the undersigned issued findings and recommendations, recommending that respondent’s motion to dismiss the petition as untimely be granted in part and denied in part. Specifically, the undersigned recommended that petitioner’s second and fourth claims be dismissed as time-barred and that petitioner be allowed to proceed on his first and third claims. On March 28, 2011, the assigned district judge adopted the findings and recommendations in full.

Since petitioner may be entitled to relief if the claimed violation of constitutional rights is proved, respondent will be directed to file an answer to the first and third claims of petitioner’s second amended petition.

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Accordingly, IT IS HEREBY ORDERED that:

1. Within sixty days from the date of this order respondent shall file an answer to the first and third claims of petitioner's second amended petition. See Rule 4, Fed. R. Governing § 2254 Cases. The answer shall be accompanied by all transcripts and other documents relevant to the issues presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases; and

2. Petitioner's reply, if any, shall be filed and served within thirty days after service of the answer.

DATED: June 14, 2011.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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