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

OSUALDO MIRELES,
Petitioner,

No. CIV S-09-2554-LKK-CMK-P

vs.

ORDER

K. DICKINSON,
Respondents.

_____ /

Petitioner, a state prisoner proceeding pro se, brings this petition 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 Eastern District of California local rules.

On January 27, 2011, the Magistrate Judge filed findings and recommendations herein which were served on the parties and which contained notice that the parties may file objections within a specified time. No objections to the findings and recommendations have been filed.


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.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed January 27, 2011, are adopted in full;
2. Respondent's motion to dismiss (Doc. 11) is denied;
3. Respondent is granted leave to file a renewed motion to dismiss on the grounds that petitioner's petition does not affect the fact or duration of his custody; and
4. Respondent is directed to either file a renewed motion to dismiss, or otherwise properly respond to the petition, within 60 days of the date of this order.

DATED: March 7, 2011.


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT