IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT HAYDEN NESBITT, Jr.,

Petitioner, No. CIV S-09-2821 GEB GGH P

vs.

FRANCISCO JACQUEZ, Warden,

Respondent. 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 April 6, 2011, 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 fourteen 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.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed April 6, 2011, are adopted in full;

2. Petitioner's motion to certify the court's March 16, 2011, order for appeal is denied;

3. Petitioner's motion for a stay pending state court exhaustion of an ineffective assistance of counsel claim, leave to proceed upon which has previously been denied, also is denied; and

4. Petitioner is granted fourteen days to file any supplemental points and authorities to the operative amended petition filed by petitioner pro se; thereafter, respondent will be granted fourteen days to file a response, including any procedural default dispositive motion, containing the standard elements of an answer; petitioner be granted seven days to file any reply to respondent's opposition/answer.

Dated: May 10, 2011

GARLAND E. BURRELL, JR.
United States District Judge