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

NOEL PHILLIPE SCOTT,

Petitioner,

No. CIV S-09-2830 JAM GGH P

vs.

JOHN W. HAVILAND, Warden,

Respondent.

ORDER

\_\_\_\_\_ /

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 July 21, 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 fourteen days. Respondent 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.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed July 21, 2010, are adopted in full; and
2. Respondent's motion to dismiss the petition as untimely, filed on December 30, 2009 (docket #17), is denied;
3. Respondent is ordered to file an answer to the petition within sixty days of the filed date of this order; thereafter, petitioner will have twenty-eight days to file a reply.

DATED: September 21, 2010

/s/ John A. Mendez  
UNITED STATES DISTRICT JUDGE