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

HUNG DUONG NGUON,

Petitioner,

No. CIV S-09-2975 GEB KJM P

vs.

KATHLEEN L. DICKINSON,

Respondent.

ORDER

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Petitioner is a California prisoner proceeding with an application for writ of habeas corpus under 28. U.S.C. § 2254. Since petitioner may be entitled to relief if the claimed violation of Constitutional rights in claim one is proved, respondent will be directed to file a response to claim one. As for claims two, three and four, petitioner fails to state a claim upon which habeas relief can be granted because he challenges conditions of confinement rather than the legality or length of his custody. Badea v. Cox, 931 F.2d 573, 574 (9th Cir. 1991). Respondent need not respond to claims two, three and four. If petitioner wishes to pursue those claims further, he may wish to consider commencing a separate action for violation of civil rights under 42 U.S.C. § 1983. See Badea, 931 F.2d at 574.

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1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations issued July 30, 2010, are vacated.

3 2. Respondent is directed to file a response to claim one in petitioner's habeas  
4 petition within sixty days from the date of this order. See Rule 4, Fed. R. Governing § 2254  
5 Cases. An answer shall be accompanied by all transcripts and other documents relevant to the  
6 issues presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases.

7 3. If the response to the habeas petition is an answer, petitioner's reply, if any,  
8 shall be filed and served within thirty days after service of the answer.

9 4. If the response to the habeas petition is a motion, petitioner's opposition or  
10 statement of non-opposition to the motion shall be filed and served within thirty days after  
11 service of the motion, and respondent's reply, if any, shall be filed and served within fourteen  
12 days thereafter.

13 DATED: December 18, 2010.

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16 U.S. MAGISTRATE JUDGE