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

ANDRE B. ISLAND,

Petitioner,

No. CIV S-09-3226 JAM CKD P

vs.

TOM L. CAREY,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed an 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 General Order No. 262.

On January 7, 2011, the magistrate judge filed findings and recommendations herein which were served on the parties and which contained notice that any objections to the findings and recommendations were to be filed within twenty-one days. No objections 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. Accordingly, IT IS HEREBY ORDERED that:

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1. The findings and recommendations filed January 7, 2011, are adopted in full;
2. Respondent's August 4, 2010 motion to dismiss is granted;
3. Petitioner's application for writ of habeas corpus is dismissed;
4. Petitioner is granted thirty days within which to file an amended petition for writ of habeas corpus which includes only the three claims where petitioner has exhausted state court remedies; and

5. Petitioner's failure to file an amended petition within thirty days will result in this action being dismissed.

DATED: September 28, 2011

/s/ John A. Mendez
U. S. DISTRICT COURT JUDGE