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

MICHAEL AARON WITKIN,

Petitioner,

No. 2:10-cv-0091 GEB DAD (HC)

vs.

JAMES A. YATES, 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 February 11, 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.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The findings and recommendations filed February 11, 2011, are adopted in
3 full;

4 2. This action is construed as a challenge to petitioner's 2009 conviction as
5 enhanced by his 2005 conviction;

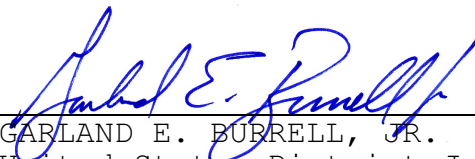
6 3. Respondent's August 16, 2010 motion to dismiss (Doc. No. 18) is denied;

7 4. Within thirty days from the date of this order respondent shall file either
8 another motion to dismiss or an answer to the claims raised in the petition;

9 5. If respondent files an answer, petitioner's reply, if any, shall be filed and
10 served within thirty days after service of the answer; and

11 6. If respondent files a motion, petitioner's opposition or statement of non-
12 opposition to the motion shall be filed and served within thirty days after service of the motion,
13 and respondents' reply, if any, shall be filed and served within fourteen days thereafter.

14 Dated: March 10, 2011

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GARLAND E. BURRELL, JR.
United States District Judge