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

JAMES W. CAMPBELL,

Petitioner,

No. CIV S-10-0114 FCD DAD P

vs.

FRANCISCO JACQUEZ,

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 Rule 302.

On December 15, 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 twenty-one days. Neither party has filed objections to the findings and recommendations.

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           1. The findings and recommendations filed December 15, 2010, are adopted in  
2 full;


3           2. Respondent's March 15, 2010 motion to dismiss (Doc. No. 20) is granted in  
4 part;

5           3. The following sub-claims within petitioner's stated first ground for relief are  
6 dismissed as unexhausted: sub-claim (a) alleging that trial counsel provided ineffective  
7 assistance by failing to cross-examine witnesses; and sub-claim (c) alleging that trial counsel  
8 provided ineffective assistance by failing to object to the exclusion of state-of-mind evidence at  
9 petitioner's trial;

10           4. Within thirty days from the service of this order, petitioner shall file an  
11 amended petition containing only his exhausted grounds for relief; the amended petition must  
12 bear the docket number assigned this case and must be labeled "Amended Petition;" petitioner  
13 shall use the form petition provided by the Clerk of the Court; petitioner's failure to file an  
14 amended petition in accordance with this order will result in the dismissal of this action; and

15           5. The Clerk of the Court is directed to provide petitioner a copy of the court's  
16 form petition for a writ of habeas corpus by a state prisoner.

17  
18 DATED: February 23, 2011.

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FRANK C. DAMRELL, JR.  
UNITED STATES DISTRICT JUDGE