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

FRANK DIXON,

Petitioner,

No. CIV S-10-0631 FCD EFB P

vs.

JAMES YATES,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding through counsel, 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 7, 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 and respondent has filed a reply thereto.

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

1 by proper analysis.

2                   However, plaintiff requests that this action be stayed pending the rehearing en  
3 banc of Lee v. Lampert, 610 F.3d 1125 (9th Cir. 2010). See 2011 WL 499347 (Feb. 8, 2011).

4 The question presented in Lee is whether a claim of actual innocence creates an exception to  
5 AEDPA's one-year statute of limitation. Because the outcome in Lee could alter the bases for the  
6 findings and recommendations, the court will administratively stay this action pending the  
7 issuance of a decision in Lee.

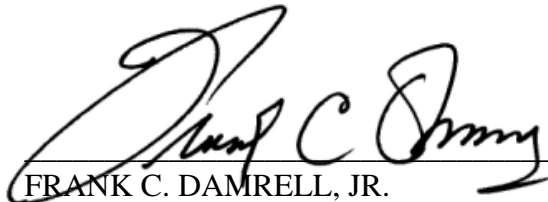
8                   Accordingly, IT IS HEREBY ORDERED that:

9                   1. The Clerk is directed to administratively close this case; and

10                  2. The parties are directed to file status reports within 14 days after a decision in

11 Lee is rendered.

12 DATED: March 22, 2011.

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14 FRANK C. DAMRELL, JR.  
15 UNITED STATES DISTRICT JUDGE  
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