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

DOCK McNEELY,

Petitioner,

No. CIV S-10-0728 JAM KJM P

vs.

GARY SWARTHOUT, Warden,

Respondent.

AMENDED 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 General Order No. 262.

On August 6, 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. Petitioner has filed objections to the findings and recommendations and has filed an additional pleading he has titled "Affirmative Defense."

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 including petitioner's September 17, 2010 filing called "Affirmative Defense," the

1 court finds the findings and recommendations to be supported by the record and by proper
2 analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed August 6, 2010, are adopted in full;

5 and

6 2. Petitioner's motion to amend or alter the judgment (Docket No. 14) is denied.

7 DATED: September 29, 2010.

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/s/ John A. Mendez
UNITED STATES DISTRICT JUDGE

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