Doc. 36 (HC) Davis v. Haviland UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA DONALD DAVIS, No. 2:10-cv-01029 KJM DAD P Petitioner. v. **ORDER** JAMES HAVILAND, Respondents. Petitioner, a state prisoner proceeding pro se, has filed an amended application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On June 20, 2013, the magistrate judge filed findings and recommendations, which were served on all parties and which contained notice to all parties that any objections to the findings

On June 20, 2013, the magistrate judge filed findings and recommendations, 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. Neither party has filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir. 1983). Having carefully reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

Accordingly, IT IS HEREBY ORDERED that:

- 1. The findings and recommendations filed June 20, 2013, are adopted in full;
- 2. Respondent's January 23, 2013 motion to dismiss (ECF No. 32) is denied; and
- 3. Respondent shall file and serve an answer within thirty days from the service of this order; petitioner shall file and serve his traverse thirty days thereafter.

DATED: August 8, 2013.

UNITED STATES DISTRICT JUDGE