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

NAHU RODRIQUEZ,

Petitioner,

No. 2:10-cv-1226 GEB KJN P

vs.

GARY SWARTHOUT,

Respondent.

ORDER

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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 January 4, 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 twenty-one days. Respondent 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.

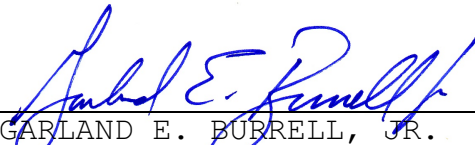
1                   Accordingly, IT IS HEREBY ORDERED that:

2                   1. The findings and recommendations filed January 4, 2011, are adopted in full;

3                   2. Respondent's August 23, 2010 motion to dismiss (dkt. no. 11) is denied; and

4                   3. Respondent shall file an answer to petitioner's habeas petition within sixty  
5 days from the date of this order. See Rule 4, Fed. R. Governing § 2254 Cases. The answer shall  
6 be accompanied by all transcripts and other documents relevant to the issues presented in the  
7 petition. See Rule 5, Fed. R. Governing § 2254 Cases.

8 Dated: May 18, 2011

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12                   GARLAND E. BURRELL, JR.  
13                   United States District Judge  
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