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

GARY ULUKIVAIOLA,

Petitioner,

No. CIV S-10-1350 WBS EFB P

vs.

L.S. McEWEN, Warden,

Respondent.

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 Rule 302.

On August 23, 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.

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 August 23, 2011, are adopted in full;
3 2. Respondent's January 13, 2011 motion to dismiss is granted without prejudice;

4 and

5 3. Petitioner is granted thirty days to file an amended petition containing only
6 exhausted claims. Failure to timely file the amended petition may result in a final dismissal of
7 this action.

8 DATED: September 21, 2011

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10 WILLIAM B. SHUBB
11 UNITED STATES DISTRICT JUDGE
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