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

JAMES D. HALLER,

Petitioner,

No. CIV S-10-3446 WBS DAD P

vs.

WARDEN BITER,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed an 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 2, 2011, the magistrate judge filed findings and recommendations herein recommending that petitioner’s renewed motion for stay and abeyance be denied and that the matter be referred back to the assigned Magistrate Judge for further proceedings. Those findings and recommendations were served on petitioner and contained notice that any objections to the findings and recommendations were to be filed within twenty-one days. On September 2, 2011, the magistrate judge granted petitioner a sixty-day extension of time to file objections to those findings and recommendations. The sixty-day period expired, and petitioner had not filed objections to the findings and recommendations. On November 14, 2011, the court

1 adopted the magistrate judge's findings and recommendations in full and referred this matter
2 back to the magistrate judge for further proceedings.

3 On November 10, 2011, petitioner filed a document styled "Motion for Stay &
4 Abeyance" in one of his previously-closed cases. See Case No. CIV 08-1997 DFL GGH. On
5 November 22, 2011, Magistrate Judge Gregory H. Hollows reviewed the motion and determined
6 that petitioner erroneously wrote Case No. CIV 08-1997 DFL GGH on the motion. Magistrate
7 Judge Hollows ordered the Clerk of the Court to remove petitioner's motion from Case No. CIV
8 08-1997 DFL GGH and file it in this case.

9 The undersigned has reviewed petitioner's motion and will construe it as his
10 belated objections to the magistrate judge's August 2, 2011 findings and recommendations.
11 Under these circumstances, and in the interest of justice, the undersigned will vacate its
12 November 14, 2011 order and consider petitioner's objections as if they were timely filed in this
13 case.

14 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule
15 304, this court has conducted a de novo review of this case. Having carefully reviewed the
16 entire file, the court finds the findings and recommendations to be supported by the record and
17 by proper analysis.

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. The court's November 14, 2011 order is vacated;
20 2. The findings and recommendations filed August 2, 2011, are again adopted in
21 full;

22 3. Petitioner's renewed motion for a stay and abeyance (Doc. No. 10) is denied;
23 and

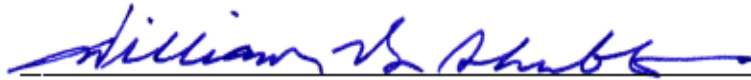
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1 4. This matter is referred back to the assigned magistrate judge for further
2 proceedings on petitioner's original petition for writ of habeas corpus.

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4 DATED: December 1, 2011

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6 WILLIAM B. SHUBB
7 UNITED STATES DISTRICT JUDGE
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