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

JOHN GONZALES JOSEPH,

Petitioner,

No. CIV S-11-0260 JAM GGH P

vs.

GARY SWARTHOUT,

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 December 13, 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. Respondent has filed objections to the findings and recommendations to which petitioner has filed a reply.

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

1 proper analysis.

2 Accordingly, IT IS HEREBY ORDERED that:

3 1. The findings and recommendations filed December 13, 2011, are adopted in  
4 full;

5 2. Respondent's motion to dismiss, filed on June 27, 2011 (docket # 23), is  
6 denied; and

7 3. Respondent is directed to file an answer as to claim 1 within sixty (60) days,  
8 and thereafter, within sixty days, petitioner is directed to file any reply/traverse.

9 DATED: February 22, 2012

10 /s/ John A. Mendez  
11 UNITED STATES DISTRICT COURT JUDGE

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