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

GREGORY DWAYNE REED,

Petitioner,

No. CIV. S-11-1026 JAM KJN P

vs.

GARY SWARTHOUT,

Respondent.

ORDER

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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 October 14, 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. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

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1. The findings and recommendations filed October 14, 2011, are adopted in full;
2. Respondent's July 14, 2011 motion to dismiss petitioner's due process claims (dkt. no. 11) is granted with prejudice;
3. Respondent's motion to dismiss petitioner's Ex Post Facto claim is denied without prejudice; and
4. Within thirty days after service of this order, respondent shall file an answer. Thirty days thereafter, petitioner shall file a traverse.

DATED: December 8, 2011

/s/ John A. Mendez  
UNITED STATES DISTRICT JUDGE