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

PETER LYNN GALLOWAY,

Petitioner,

No. CIV S-11-1464 KJM DAD P

vs.

R.H. TRIMBLE, Warden,

Respondent.

ORDER

_____ /

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 8, 2011, the magistrate judge filed findings and recommendations, 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 presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. *See Britt v. Simi Valley Unified School Dist.*, 708 F.2d 452, 454 (9th Cir.

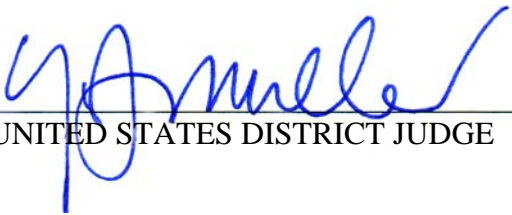
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1 1983). Having carefully reviewed the file, the court finds the findings and recommendations to
2 be supported by the record and by the proper analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed November 8, 2011, are adopted in
5 full;
- 6 2. Respondent's July 22, 2011 motion to dismiss (Doc. No. 11) is denied;
- 7 3. Petitioner's motion to amend (Doc. No. 14) is deemed withdrawn; and
- 8 4. Petitioner is granted thirty days leave to file a declaration notifying the court
9 as to how he wishes to proceed in this case.

10 DATED: January 23, 2012.

11 
12 _____
13 UNITED STATES DISTRICT JUDGE

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