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

ROY ROACH,

Petitioner,

No. 2:11-cv-2286 KJM JFM P

vs.

R. HILL, 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 August 8, 2012, 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 fourteen 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.

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. At the same time, the court refers the
3 case back to the magistrate judge as set forth below.

4 Accordingly, IT IS HEREBY ORDERED that:

5 1. The findings and recommendations filed August 8, 2012, are adopted in full;

6 2. Respondent's October 28, 2011 motion to dismiss is denied as to respondent's
7 contention that this action is barred by the statute of limitations;

8 3. Respondent's October 28, 2011 motion to dismiss is granted as to petitioner's
9 first, second, third, and eighth claims for relief, as well as that part of petitioner's fourth claim
10 for relief in which petitioner contends that his sentence has been converted to life without the
11 possibility of parole, and said claims are dismissed;

12 4. Petitioner's fifth and seventh claims for relief and that aspect of petitioner's
13 fourth claim for relief in which he contends that his sentence violates the Eighth Amendment are
14 dismissed; and

15 5. This matter is referred back to the magistrate judge for findings and
16 recommendations on whether petitioner's sixth claim for relief is moot and whether this court
17 should issue a certificate of appealability.

18 DATED: September 26, 2012.

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20 UNITED STATES DISTRICT JUDGE
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