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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANCOIS P. GIVENS,
Petitioner,
v.
ROBERT NEUSCHMID,
Respondent.

No. 2:17-cv-0328 KJM CKD P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this 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 February 8, 2019, 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. Respondent has filed objections to the findings and recommendations, Objs, ECF No. 28, and petitioner has responded, ECF No. 31.

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. In light of the issues raised by respondent’s objections and the lack of cited authority or explanation for the “materially different” standard used in the findings and recommendations, Findings at 4, the matter is referred back to the magistrate judge for further consideration and explanation.

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Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed February 8, 2019, are not adopted; and
2. The matter is referred back to the assigned Magistrate Judge.

DATED: March 29, 2019.



UNITED STATES DISTRICT JUDGE