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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

WILLIAM ODESSA BROWN, II,

v.

LARRY SMALL, WARDEN,

Respondent.

Case No. 10cv99 BTM(NLS)

**ORDER ADOPTING REPORT AND
RECOMMENDATION; GRANTING
MOTION TO DISMISS; AND
DENYING CERTIFICATE OF
APPEALABILITY**

William Odessa Brown, II, has filed a Petition For Writ of Habeas Corpus, alleging due process violations resulting from the prison’s failure to restore lost credits forfeited due to an administrative finding of guilt for a rule violation. In a Report and Recommendation filed on July 19, 2010, Magistrate Judge Stormes recommends that Respondent’s motion to dismiss be granted on the grounds that the Petition fails to challenge the legality or duration of Petitioner’s confinement and is successive.

The Court has conducted a de novo review of the Report and Recommendation and the relevant record and concludes that the Report and Recommendation properly applies the law to the record. Therefore, the Court **ADOPTS** the Report and Recommendation and **ORDERS** as follows:

- (1) Respondent’s motion to dismiss is **GRANTED**;
- (2) The Petition for Writ of Habeas Corpus is **DISMISSED**; and

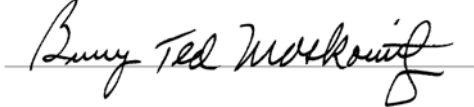
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(3) The Court **DENIES** a Certificate of Appealability.

The Clerk shall enter a final judgment accordingly.

IT IS SO ORDERED.

DATED: October 18, 2010



Honorable Barry Ted Moskowitz
United States District Judge