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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM ROBERT STANKEWITZ,)	1:06-cv-01220-LJO-JLT HC
)	
Petitioner,	)	ORDER ADOPTING FINDINGS AND
	)	RECOMMENDATIONS (Doc. 33)
v.)	
	)	ORDER GRANTING RESPONDENT'S
	)	MOTION TO DISMISS FOR LACK OF
DERRAL G. ADAMS, et al.,	)	EXHAUSTION (Doc. 13)
)	
	)	ORDER PERMITTING PETITIONER FIFTEEN
Respondents.	)	DAYS TO WITHDRAW UNEXHAUSTED
	)	GROUND SIX AND PROCEED ON
	)	GROUNDS ONE THROUGH FIVE OR HAVE
	)	PETITION DISMISSED

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On February 14, 2008, Respondent filed a motion to dismiss the petition, contending that the petition should be dismissed as a mixed petition because Ground Six in the instant petition was not exhausted in state court. (Doc. 13). Subsequently, Petitioner requested, and was granted, a stay of proceedings in order to exhaust Ground Six. (Docs. 12 & 19). On May 5, 2010, the Court issued an order lifting the stay of proceedings because of Petitioner's failure to keep the Court apprised of the status of his exhaustion efforts through regularly filed status

1 reports. ([Doc. 33](#)). That order also contained Findings and Recommendations that Ground Six
2 was not exhausted, that the petition was therefore a mixed petition, and that Respondent’s motion
3 to dismiss should be granted. (*Id.*). The Findings and Recommendations indicated that
4 Petitioner would be given an opportunity to withdraw Ground Six and proceed on the remaining
5 claims before the Court dismissed the petition outright as a mixed petition. The Findings and
6 Recommendations was served on all parties and contained notice that any objections were to be
7 filed within twenty days from the date of service of that order. To date, the parties have not filed
8 any objections to the Findings and Recommendations.

9 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted
10 a *de novo* review of the case. Having carefully reviewed the entire file, the Court concludes that
11 the Magistrate Judge’s Findings and Recommendations is supported by the record and proper
12 analysis.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. The Findings and Recommendations, filed May 7, 2010 (Doc. 33), is ADOPTED
15 IN FULL;
- 16 2. Respondent’s Motion to Dismiss for lack of exhaustion as to Ground Six (Doc.
17 13), is GRANTED;
- 18 4. Petitioner is granted fifteen (15) days from the date of service of this order in
19 which to file a motion to withdraw the unexhausted Ground Six and proceed on
20 the remaining claims, i.e., Grounds One through Five. *If Petitioner fails to file*
21 *such a motion within the time provided by this order, the Court will enter an*
22 *order dismissing the petition as a mixed petition containing unexhausted claims*
23 *and enter judgment accordingly.*

24 IT IS SO ORDERED.

25 Dated: June 17, 2010

26 /s/ Lawrence J. O’Neill
27 UNITED STATES DISTRICT JUDGE
28