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6	UNITED STATES DISTRICT COURT	
7	EASTERN DISTRICT OF CALIFORNIA	
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9	DAVID D. KNIGHT,	No. 1:15-cv-00958-LJO-SKO HC
10	Petitioner,	ORDER ADOPTING FINDINGS AND RECOMMENDATIONS
11	v.	RECOMMENDATIONS RECOMMENDING THAT THE COURT DISMISS THE PETITION AS UNTIMELY
12	DAVE DAVEY, Warden,	DISMISS THE FETTION AS UNTIWELT
13	Respondent.	(Docs. 14, 18, and 19)
14		(Docs. 14, 16, and 19)
15	Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus	
16	pursuant to 28 U.S.C. § 2254. Respondent moved to dismiss, contending that the petition is	
17	barred by the statute of limitations. Doc. 14. In response to the motion to dismiss, Petitioner	
18	filed a motion to stay to permit exhaustion or to dismiss unexhausted claims. Doc. 18. The	
19	Court referred the matter to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local	
20	Rules 302 and 304.	
21	On January 22, 2016, the Magistrate Judge filed findings and recommendations in which	
22	she recommended that the Court dismiss the petition as untimely, enter judgment for Respondent,	
23	and decline to issue a certificate of appealability. The findings and recommendations, which	
24	were served on all parties on the same date, provided that objections could be served within thirty	
25	days and replies within fourteen days after the filing of any objections. On February 19, 2016,	
26	Petitioner filed objections. Although over fourteen days have passed since Petitioner filed	
27	objections, Respondent has filed no reply.	
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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), having carefully reviewed 2 the entire file *de novo* and considered Petitioner's objections, the Court declines to modify the 3 findings and recommendations based on any point raised in the objections. Petitioner contends 4 that since the Ninth Circuit Court of Appeals determined that it need not authorize Petitioner's 5 filing as a second or successive petition, the petition is not barred by the statute of limitations. 6 Because the Ninth Circuit did not consider whether Petitioner's filing was untimely, its order does 7 not overcome the application of the statute of limitations in this case. The Court finds that the 8 findings and recommendations are supported by the record and proper analysis. 9 Accordingly, the Court hereby ORDERS: 10 1. The findings and recommendations filed January 22, 2016, are adopted in full; 11 2. The petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is dismissed as 12 untimely; 3. 13 Petitioner's motion to stay or dismiss unexhausted claims is DENIED; 14 4. The Court DECLINES to issue a certificate of appealability; and 15 5. The Court DIRECTS the Clerk of Court to enter judgment for Respondent. IT IS SO ORDERED. 16 March 7, 2016 /s/ Lawrence J. O'Neill Dated: 17 18 19 20 21 22 23 24 25 26 27 28