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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

LAMA UGILEY,	)	
	)	
Petitioner,	)	Case No. CV 15-3044 VBF (AJW)
	)	
v.	)	
	)	ORDER ACCEPTING REPORT AND
SUPERIOR COURT OF LOS ANGELES	)	RECOMMENDATION OF
COUNTY,	)	MAGISTRATE JUDGE
	)	
Respondent.	)	
_____	)	

The Court has reviewed the Petition for Writ of Habeas Corpus, Respondent's Answer, Petitioner's Traverse, the Report and Recommendation of the Magistrate Judge ("Report"), and Petitioner's objections.


The Court must engage in a *de novo* review of those portions of the Report to which Petitioner has objected. See Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). In her objections, Petitioner mostly reargues her claims that (1) CALCRIM No. 318 improperly relieved the prosecution of its burden of proof and denied Petitioner her constitutional rights, and (2) evidence fails to support the trial court's finding that Petitioner had the present ability to pay attorney's fees. The Court overrules these objections for the reasons

1 stated in the Report.

2 For the first time in her objections, Petitioner claims that  
3 appellate counsel rendered ineffective assistance "by failing to  
4 federalize the issue" of Petitioner's ability to pay attorney's fees.  
5 "[A] district court has discretion, but is not required, to consider  
6 evidence presented for the first time in a party's objection to a  
7 magistrate judge's recommendation." *Brown v. Roe*, 279 F.3d 742, 744  
8 (9th Cir. 2002), citing *United States v. Howell*, 231 F.3d 615, 621  
9 (9th Cir. 2000). The Court has considered and rejects Petitioner's  
10 claim of ineffective assistance. A cursory reference to appellate  
11 counsel's failure to "federalize the issue" falls woefully short of  
12 supporting, let alone stating, a claim of ineffective assistance of  
13 counsel. Moreover, Petitioner's new claim has not been exhausted in  
14 state court and therefore is not appropriate for review. See *Collins*  
15 *v. Arnold*, 2017 WL 2468767, at \*1 (C.D. Cal. Jun. 6, 2017); see also  
16 *Griffin v. Davis*, 2017 WL 1649999, at \*1 (C.D. Cal. Apr. 28, 2017).

17 The Court accepts the findings of fact, conclusions of law, and  
18 recommendations contained in the Report. IT IS THEREFORE ORDERED that  
19 (1) the Report and Recommendation is accepted and adopted, and (2)  
20 Judgment shall be entered denying the Petition and dismissing this  
21 action with prejudice.

22  
23 DATED: June 21, 2017

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25 \_\_\_\_\_  
26 Valerie Baker Fairbank  
27 United States District Judge  
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