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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

NAILAH WHITE,	)	Case No. CV 16-1863-DSF (JPR)
	)	
Petitioner,	)	
	)	ORDER ACCEPTING FINDINGS AND
v.	)	RECOMMENDATIONS OF U.S.
	)	MAGISTRATE JUDGE
JANEL ESPINOZA, Warden,	)	
	)	
Respondent.	)	
	)	

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The Court has reviewed the Petition, records on file, and Report and Recommendation of U.S. Magistrate Judge. See 28 U.S.C. § 636. On December 26, 2017, Petitioner filed objections, in which she mostly repeats arguments raised in the Petition and Traverse.<sup>1</sup> Those arguments were thoroughly addressed and rejected in the R. & R., but one of Petitioner's objections requires brief discussion.

Petitioner argues that insufficient evidence supported her conviction for mayhem as an aider and abettor. (See Objs. at 10-11.) She contends in particular that the "specific intent" element of aiding and abetting was not proved and contests the

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<sup>1</sup> On December 28, 2017, Petitioner filed a Request to Correct or Amend the Objections, which the Court grants.

1 prosecution's reliance on "the doctrine [that] 'malice' c[ould]  
2 be inferred by injury." (Id.) Petitioner's arguments are  
3 unconvincing.

4 The prosecution proceeded both on the theory of aiding and  
5 abetting and guilt as a principal (see Lodged Doc. 2, 7 Rep.'s  
6 Tr. at 2176-78 ("[Petitioner] committed some of these things  
7 personally . . . and also aided and abetted[.]")), and the jury  
8 was so instructed (see Lodged Doc. 2, 2 Rep.'s Tr. at 237 (aiding  
9 and abetting), 244 (mayhem principal theory as to both  
10 defendants)). A "jury [is] not required to unanimously choose a  
11 particular theory" and may "validly rely on different theories in  
12 order to return a guilty verdict." Taylor v. Beard, 811 F.3d  
13 326, 332 (9th Cir. 2016) (en banc) (citing Schad v. Arizona, 501  
14 U.S. 624, 631-32 (1991)). Thus, the jury was not required to  
15 find "beyond a reasonable doubt that Petitioner was in fact an  
16 aider and abettor," as she alleges (Objs. at 10), but rather  
17 could convict her of mayhem as a principal. See People v.  
18 Majors, 18 Cal. 4th 385, 408 (1998) ("[T]he jury need not decide  
19 unanimously whether defendant was guilty as the aider and abettor  
20 or as the direct perpetrator."). Indeed, the jury found that  
21 Petitioner "personally inflicted great bodily injury." (Lodged  
22 Doc. 1, 2 Clerk's Tr. at 270-71.) As the R. & R. has addressed  
23 in full, sufficient evidence supported Petitioner's mayhem  
24 conviction on a theory of guilt as a principal. (See R. & R. at  
25 50-57.)

26 Having reviewed de novo those portions of the R. & R. to  
27 which Petitioner objected, the Court accepts the Magistrate  
28 Judge's findings and recommendations.

1 IT IS THEREFORE ORDERED that Judgment be entered denying the  
2 Petition and dismissing this action with prejudice.

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4 DATED: 2/5/18

*Dale Fischer*  
5 DALE S. FISCHER  
6 U.S. DISTRICT JUDGE  
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