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UNITED STAT	'ES DISTRICT COURT
CENTRAL DIST	RICT OF CALIFORNIA
RUDY E. VASQUEZ,) Case No. CV 16-6333-JLS (JPR)
Petitioner,)) ORDER ACCEPTING FINDINGS AND
V.) RECOMMENDATIONS OF U.S.) MAGISTRATE JUDGE
M.E. SPEARMAN, Warden,)
Respondent.	,))
	CENTRAL DIST RUDY E. VASQUEZ, Petitioner, v. M.E. SPEARMAN, Warden,

17 The Court has reviewed the Petition, records on file, and Report and Recommendation of U.S. Magistrate Judge. See 28 18 U.S.C. § 636. On July 27, 2017, Petitioner filed objections to 19 20 the R. & R., in which he mostly simply repeats arguments from the Petition. He does ask, however, why, if he was prosecuted on an 21 aiding-and-abetting theory, as the Magistrate Judge posited (R. & 22 R. at 10-11), he was not convicted of it instead of second-degree 23 24 murder. (Objs. at 3.) The answer is simple: under California 25 Penal Code sections 30, 31, and 971, state law does not 26 distinguish between principals and aiders and abettors. "All 27 persons concerned in the commission of a crime, whether it be 28 felony or misdemeanor, and whether they directly commit the act

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constituting the offense, or aid and abet its commission . . . are principals in any crime so committed." § 31; see also § 971 ("[A]ll persons concerned in the commission of a crime, who by the operation of other provisions of this code are principals therein, shall hereafter be prosecuted, tried and punished as principals and no other facts need be alleged in any accusatory pleading against any such person than are required in an accusatory pleading against a principal.") Petitioner's objections are not well taken.

Having made a de novo determination of those portions of the
R. & R. to which Petitioner objected, the Court accepts the
findings and recommendations of the Magistrate Judge.

13 IT THEREFORE IS ORDERED that Judgment be entered denying the14 Petition and dismissing this action with prejudice.

JOSEPHINE L. STATON U.S. DISTRICT JUDGE

DATED: <u>September 10, 2017</u>