

1 Respondent has not responded to the Objections.

2 As the Magistrate Judge correctly concluded and Petitioner
3 does not contest, all of his claims – those raised in the
4 original Petition as well as those he reframed in his amended
5 reply to the Answer – are unexhausted. (See Objs. at 4 (citing
6 R. & R. at 10-12).)² And he has not shown good cause for failing
7 to have exhausted them in the four years this action has been
8 pending. As the Magistrate Judge pointed out, she twice told him
9 that he did not have to wait for this Court to rule on his stay
10 motion to go back to state court and raise the claims there.
11 (See R. & R. at 14-15.) He has no answer for this other than to
12 say that “the only reason he held back and did not attempt to
13 exhaust before the Court granted the ‘stay’ was because he was
14 following the rules as he interpreted them.” (Objs. at 5.) In
15 light of the Magistrate Judge’s clear instructions to the
16 contrary – which Petitioner in fact did appear to understand
17 because after she so instructed the first time he immediately
18 went back to state court to exhaust his original claims (see R. &
19 R. at 14) – this bare allegation doesn’t demonstrate good cause.
20 And although he’s apparently now trying to exhaust his claims
21 (see Objs. at 2-3), he’s years too late.

22 Having reviewed de novo those portions of the R. & R. to
23 which Petitioner objects, the Court agrees with and accepts the
24 findings and recommendations of the Magistrate Judge. IT
25 THEREFORE IS ORDERED that judgment be entered dismissing the
26 Petition without prejudice. The Court takes no position on

27
28 ² The Court uses Petitioner’s pagination even though he begins
his Objections with page 2.

