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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LUIS ALBERTO VALENCIA,
Petitioner,
v.
CONNIE GIPSON, Warden,
Respondent.

Case No. 1:13-cv-01864-LJO-SMS HC

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS RECOMMENDING
DISMISSAL OF PETITIONER'S
SECOND GROUND FOR RELIEF

(Doc. 19)

Petitioner is a state prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner first filed a petition on November 18, 2013.¹ On January 9, 2014, the Court struck Petitioner's unexhausted claim and granted Petitioner's motion for a stay and abeyance.

Following the California Supreme Court's denial of his pending state petition, Petitioner filed an amended petition on July 31, 2014. He asserted three grounds for relief: (1) denial of his right to a speedy trial in violation of the Sixth Amendment to the U.S. Constitution; (2) admission of the uncorroborated testimony of a co-defendant in violation of California state law and the Sixth

¹ Petitioner also filed an earlier petition that was dismissed for failure to exhaust state remedies. *See Valencia v. Gipson*, 1:12-cv-01783-LJO-GSA HC.

1 and Fourteenth Amendments to the U.S. Constitution; and (3) administration of flawed and
2 incomplete jury instructions in violation of the Fourteenth Amendment to the U.S. Constitution.

3 The matter was referred to United States Magistrate Judge Sandra M. Snyder pursuant to 28
4 U.S.C. § 636(b) and Local Rules 72-302 and 72-304. On August 20, 2014, after screening the
5 petition, the Magistrate Judge filed findings and recommendations recommending that the Court
6 dismiss the second ground since it did not state a legally cognizable claim.

7 The Clerk of Court served the Petitioner with the findings and recommendations, which
8 provided that he could object within thirty days. The order mailed to Petitioner was returned to the
9 Clerk as undeliverable. Petitioner has neither filed objections nor provided the Court with a new
10 address.
11

12 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this Court has considered the
13 record as a whole. Following careful review, the Court finds the findings and recommendations to
14 be supported by the factual record and proper legal analysis.

15 Accordingly, the Court hereby ORDERS that the findings and recommendations, filed
16 August 20, 2014, be adopted in full. The second ground of the petition is hereby DISMISSED.
17 The Magistrate Judge is directed to issue an order requiring respondent to file a response, an order
18 setting briefing schedule, and an order directing the Clerk of Court to serve documents on the
19 Attorney General.
20

21 IT IS SO ORDERED.

22 Dated: October 27, 2014

/s/ Lawrence J. O'Neill
23 UNITED STATES DISTRICT JUDGE