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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 DALE OWEN DUSTIN,

12 Petitioner,

13 v.

14 PFFEIFFER,

15 Respondent.

Case No. 1:16-cv-01708-DAD-SAB-HC

ORDER TO SUPPLEMENT THE RECORD
REGARDING EXHAUSTION

ORDER VACATING JUNE 27, 2017
FINDINGS AND RECOMMENDATION

(ECF No. 26)

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17 Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus
18 pursuant to 28 U.S.C. § 2254.

19 On June 27, 2017, the undersigned issued findings and recommendation recommending
20 that Respondent's motion to dismiss be granted and the petition be dismissed for failure to
21 exhaust. (ECF No. 26). On July 17, 2017, Petitioner filed objections to the findings and
22 recommendation, arguing that he in fact filed petitions in the Kern County Superior Court,
23 California Court of Appeals, Fifth Appellate District, and the California Supreme Court. (ECF
24 No. 27). Respondent has not filed a reply to Petitioner's objections.

25 Accordingly, the Court HEREBY ORDERS:

- 26 1. The Findings and Recommendation issued on June 27, 2017 (ECF No. 26) is
27 VACATED;

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1 2. Within FORTY-FIVE (45) days of the date of service of this order, the parties shall
2 supplement the record with respect to exhaustion;

3 3. Replies shall be filed within THIRTY (30) days after service of the supplements.
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5 IT IS SO ORDERED.

6 Dated: August 16, 2017


UNITED STATES MAGISTRATE JUDGE