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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PHINEHAS L. PARKER,
Petitioner,
v.
R.J. RACKLEY,
Respondent.

Case No. 1:17-cv-00876-LJO-SAB-HC
FINDINGS AND RECOMMENDATION
RECOMMENDING DISMISSAL OF
PETITION FOR WRIT OF HABEAS
CORPUS

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

I.
DISCUSSION

Rule 4 of the Rules Governing Section 2254 Cases requires preliminary review of a habeas petition and allows a district court to dismiss a petition before the respondent is ordered to file a response, if it “plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court.”

A federal court must dismiss a second or successive petition that raises the same grounds as a prior petition. 28 U.S.C. § 2244(b)(1). The court must also dismiss a second or successive petition raising a new ground unless the petitioner can show that (1) the claim rests on a new, retroactive, constitutional right or (2) the factual basis of the claim was not previously

1 This Findings and Recommendation is submitted to the United States District Court
2 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636 (b)(1)(B) and Rule 304
3 of the Local Rules of Practice for the United States District Court, Eastern District of California.
4 Within **THIRTY (30) days** after service of the Findings and Recommendation, Petitioner may
5 file written objections with the Court and serve a copy on all parties. Such a document should be
6 captioned “Objections to Magistrate Judge’s Findings and Recommendation.” The assigned
7 District Judge will then review the Magistrate Judge’s ruling pursuant to 28 U.S.C.
8 § 636(b)(1)(C). Petitioner is advised that failure to file objections within the specified time may
9 result in the waiver of rights on appeal. Wilkerson v. Wheeler, 772 F.3d 834, 839 (9th Cir. 2014)
10 (citing Baxter v. Sullivan, 923 F.2d 1391, 1394 (9th Cir. 1991)).

11 IT IS SO ORDERED.

12
13 Dated: August 31, 2017


UNITED STATES MAGISTRATE JUDGE