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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OMAR WARREN,

 Petitioner,

 v.

STU SHERMAN, et al.,

 Respondents.

No. 1:19-cv-01007-DAD-JLT (HC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, DISMISSING
HABEAS PETITION WITHOUT PREJUDICE

(Doc. No. 8)

Petitioner Omar Warren is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus. (Doc. No. 1.) After conducting a preliminary review of the petition, the assigned magistrate judge found that the petitioner had not exhausted his claims by first presenting them to the state’s highest court and may have filed his habeas petition in the wrong court.¹ (Doc. No. 5.) Accordingly, petitioner was ordered to show cause as to why the pending petition should not be dismissed due to his failure to exhaust his claims.

Petitioner filed a response in which he stated that he had made a mistake in filing the habeas petition in federal court and asked to “recall” the petition. (Doc. No. 6.) Accordingly, on October 8, 2019, the assigned magistrate judge issued findings and recommendations,

¹ The petition for writ of habeas corpus is captioned for filing in the Fresno County Superior Court. (Doc. No. 1.)

1 recommending dismissal of the petition. (Doc. No. 8.) Those findings and recommendation were
2 served upon all parties and contained notice that any objections were to be filed within ten (10)
3 days from the date of service of that order. No objections have been filed and the time in which
4 to do so has now passed.

5 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a
6 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
7 findings and recommendations are supported by the record and proper analysis.

8 Accordingly:

- 9 1. The findings and recommendations, filed October 8, 2019 (Doc. No. 8), are
10 adopted;
- 11 2. The petition for writ of habeas corpus (Doc. No. 1) is dismissed without prejudice;
12 and
- 13 3. The Clerk of the Court is directed to close the case.

14 IT IS SO ORDERED.

15 Dated: December 4, 2019

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18 UNITED STATES DISTRICT JUDGE
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