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8	UNITED STATES DISTRICT COURT	
9	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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11	RONNIE E. HOWELL,	No. 1:20-cv-00731-NONE-JLT (HC)
12	Petitioner,	ORDER ADOPTING FINDINGS AND
13	v.	RECOMMENDATIONS AND GRANTING IN PART RESPONDENT'S MOTION TO
14	JASON BLACK, Executive Director of	DISMISS
15	Atascadero State Hospital,	(Doc. Nos. 23, 29)
16	Respondent.	
17	Petitioner is a state prisoner proceeding in propria persona with a petition for writ of	
18	habeas corpus pursuant to 28 U.S.C. § 2254. This matter was referred to a United States	
19	Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.	
20	On December 18, 2020, respondent filed a motion to dismiss due to plaintiff's alleged	
21	failure to exhaust three of his claims for federal habeas relief by first presenting them to the	
22	state's highest court. (Doc. No. 23.) On February 12, 2021, the assigned magistrate judge issued	
23	findings and recommendations recommending that respondent's motion to dismiss be granted in	
24	part. (Doc. No. 29.) Petitioner raises four claims in his petition, but only one claim has been	
25	exhausted. (See id. at 3.) The magistrate judge found that the instant petition is a mixed petition	
26	containing both exhausted and unexhausted claims and recommended that petitioner be allowed	
27	to either seek leave to amend or a stay and abeyance of this federal habeas action while petitioner	
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1	exhausts any unexhausted claims in state court. ¹ (<i>Id.</i>) These findings and recommendations were		
2	served upon all parties and contained notice that any objections were to be filed within twenty-		
3	one (21) days from the date of service of that order. (Id. at 6.) On March 8, 2021, petitioner filed		
4	objections to the magistrate judge's findings and recommendations. (Doc. No. 30.)		
5	In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the		
6	court has conducted a <i>de novo</i> review of the case. Having carefully reviewed the entire file,		
7	including petitioner's objections, the court concludes that the magistrate judge's findings and		
8	recommendations are supported by the record and proper analysis. Petitioner's objections present		
9	no grounds for questioning the magistrate judge's analysis.		
10	Accordingly, the court orders as follows:		
11	1. The findings and recommendations, filed February 12, 2021 (Doc. No. 29), are		
12	adopted in full;		
13	2. Respondent's motion to dismiss (Doc. No. 23) is granted in part; and		
14	3. Within thirty (30) days, petitioner shall file a notice with the court indicating how		
15	he wishes to proceed:		
16	(a) Dismiss his unexhausted claims and proceed only on his exhausted claim in		
17	this federal habeas proceeding;		
18	(b) Seek a stay and abeyance under the <i>Kelly</i> procedure; or		
19	(c) Seek a stay and abeyance under the <i>Rhines</i> procedure.		
20	IT IS SO ORDERED.		
21	Dated: April 15, 2021 Jale A. Jugd		
22	UNITED STATES DISTRICT JUDGE		
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26	$\frac{1}{1}$ The findings and recommendations also explained the two different procedures available in		
27	pursuing a stay of these federal habeas proceedings, as well as the relative advantages and disadvantages of each. (Doc. No. 29 at 3-5) (citing <i>Rhines v. Weber</i> , 544 U.S. 269 (2005) and		
28	Kelly v. Small, 315 F.3d 1063 (9th Cir. 2003)).		
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