

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DOUGLAS LOUIS POPKE,
Petitioner,
v.
CHANCE ANDES,
Respondent.

) Case No.: 1:24-cv-0779 JLT EPG
)
) ORDER ADOPTING IN FULL THE FINDINGS
) AND RECOMMENDATIONS, DISMISSING
) UNEXHAUSTED CLAIMS, AND ALLOWING
) PETITIONER TO PROCEED WITH HIS
) EXHAUSTED CLAIM
)
) (Doc. 15)
)

Douglas Louis Popke is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, raising three grounds for relief: (1) ineffective assistance of counsel; (2) prosecutorial misconduct; and (3) insufficient evidence to support conviction due to Fourth Amendment violation. (Doc. 1 at 4-5.) The magistrate judge found Petitioner did not exhaust his first two grounds for relief before the California Supreme Court. (Doc. 8; *see also* Doc. 15 at 2.) Petitioner elected to proceed only with his exhausted ground. (Doc. 13.) Therefore, the magistrate judge recommended the Court dismiss the unexhausted grounds and permit Petitioner to “proceed with the exhausted sufficiency of the evidence claim.” (Doc. 15 at 3.)

The Court served the Findings and Recommendations on Petitioner and notified him that any objections were due within 14 days. (Doc. 15 at 3.) The Court advised him that the “failure to file objections within the specified time may waive the right to appeal the District Court’s order.” (*Id.* at 4, citing *Wilkerson v. Wheeler*, 772 F.3d 834, 838-39 (9th Cir. 2014).) Petitioner did not file objections,

1 and the time to do so has passed.

2 According to 28 U.S.C. § 636(b)(1), this Court performed a *de novo* review of this case. Having
3 carefully reviewed the matter, the Court concludes the Findings and Recommendations are supported
4 by the record and proper analysis. Thus, the Court **ORDERS**:

- 5 1. The Findings and Recommendations dated February 13, 2025 (Doc. 15) are
- 6 2. **ADOPTED** in full.
- 7 3. The unexhausted first and second grounds for relief are **DISMISSED**.
- 8 4. Petitioner **SHALL** proceed only with the third ground for relief related to sufficiency
9 of the evidence.
- 10 4. The matter is referred the magistrate judge for further proceedings.

11
12 IT IS SO ORDERED.

13 Dated: March 12, 2025


UNITED STATES DISTRICT JUDGE