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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

VICTOR LEE SEVERANCE,

Petitioner,

No. CIV S-06-1964 FCD KJM P

vs.

MIKE EVANS,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed this application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

On June 17, 2009, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within twenty days. Petitioner has filed objections to the findings and recommendations.¹


¹ In his objections, petitioner asserts that his attorney during the sanity phase of his trial failed to call certain witnesses or to present “valuable evidence.” (July 9, 2009, Objections to Magistrate Judge’s Findings and Recommendations, at 2.) To the extent petitioner is attempting to raise a new claim of ineffective assistance of counsel in his objections, this court exercises its discretion not to consider any such claim. See United States v. Howell, 231 F.3d 615, 621 (9th Cir. 2000) (a district court “has discretion, but is not required,” to consider evidence and claims

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-
2 304, this court has conducted a de novo review of this case. Having carefully reviewed the
3 entire file, the court finds the findings and recommendations to be supported by the record and
4 by proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

- 6 1. The findings and recommendations filed June 17, 2009, are adopted in full;
7 and
8 2. Petitioner's application for a writ of habeas corpus is denied.

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10 DATED: July 31, 2009.

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12 FRANK C. DAMRELL, JR.
13 UNITED STATES DISTRICT JUDGE
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26 raised for the first time in the objection to a magistrate judge's report). See also Brown v. Roe,
279 F.3d 742, 745 (9th Cir. 2002) (same). There is no basis in the record for a claim of
ineffective assistance of counsel.