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

GORDON JAMES WRIGHT,

Petitioner,

No. CIV S-09-2543 KJM DAD

vs.

J HAMLET,

Respondent.

ORDER

_____/

Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On June 14, 2010, respondent filed a motion to dismiss. On February 24, 2011, the magistrate judge filed findings and recommendations, which were served on petitioner and which contained notice to the parties that any objections to the findings and recommendations were to be filed within twenty-one days. Petitioner filed objections to the findings and recommendations on March 14, 2011.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the file,

1 the court finds the findings and recommendations to be supported by the record¹ and by the
2 proper analysis.

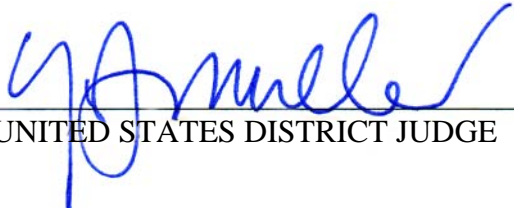
3 Accordingly, IT IS HEREBY ORDERED that:

4 1. The findings and recommendations filed February 24, 2011, are adopted;

5 2. Respondent's motion to dismiss is granted as to claims 1, 2, 8, 10, and 11; and
6 also is granted as to claim 12, only to the extent this claim alleges appellate counsel failed to
7 raise prosecutorial error on appeal; and otherwise denied.² Respondent is directed to file a
8 response to petitioner's habeas petition addressing the remaining, properly exhausted claims
9 within 60 days from the date of this order. Petitioner is directed to file a reply within 30 days
10 after service of an answer.

11 3. The court declines to issue a certificate of appealability under 28 U.S.C.
12 § 2253(c)(2).

13 DATED: September 26, 2011.

14
15 
16 UNITED STATES DISTRICT JUDGE

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19 wrig2543.800.hc
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22 _____
23 ¹ The court notes that page 2, line 20 of the findings and recommendations lists the date of
24 the Shasta County Superior Court denial of petitioner's petition as April 7, 2009. This should read
25 April 7, 2008.

26 ² The court notes that the magistrate judge apparently inadvertently identifies claim 13 as one
of the claims to be dismissed as unexhausted in the conclusion of the findings and recommendations;
however, the analysis, which the court adopts, recommends denying the motion to dismiss as to
claim 13. (*Compare* F&R at 14:6-11 *with* F&R at 16:6.)