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

JOSEPH MANUEL ORTIZ,

Petitioner,

No. 2: 11-cv-1593 JAM GGH P

vs.

ROBERT H. TRIMBLE, Acting Warden,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding pro se, has filed an 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 Rule 302.

On July 31, 2012, 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 fourteen days. Neither party has filed objections to the findings and recommendations.

The court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis. Accordingly, IT IS HEREBY ORDERED that:

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1. The findings and recommendations filed July 31, 2012, are adopted in full; and

2. Respondent's motion to dismiss claims one, three, four, five and seven as unexhausted, filed on October 28, 2011 (docket # 14), is granted and those claims are stricken;

3. Petitioner's motion for a stay and abeyance pending state court exhaustion of unexhausted claims, filed on January 3, 2012 (docket # 18), is denied;

4. This matter proceeds only as to claims two, six and eight; and

5. Respondent is directed to file an answer within 45 days, after which petitioner is granted 45 days to file a reply/traverse.

DATED: September 11, 2012

/s/ John A. Mendez

UNITED STATES DISTRICT COURT JUDGE