

1 After reviewing the petition for habeas corpus, the court finds that petitioner has failed to
2 exhaust state court remedies. The claims have not been presented to the California Supreme
3 Court. Further, there is no allegation that state court remedies are no longer available to
4 petitioner. Accordingly, the petition should be dismissed without prejudice.²

5 Good cause appearing, IT IS HEREBY ORDERED that:

6 1. The Clerk shall assign a district judge to this case as petitioner has not filed a consent
7 to the undersigned presiding pursuant to 28 U.S.C. § 636(c);

8 2. The Clerk of the Court is directed to serve a copy of these findings and
9 recommendations together with a copy of the petition filed in the instant case on the Attorney
10 General of the State of California; and

11 IT IS HEREBY RECOMMENDED that petitioner's application for a writ of habeas
12 corpus be dismissed for failure to exhaust state remedies.

13 These findings and recommendations will be submitted to the United States District Judge
14 assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
15 after being served with these findings and recommendations, petitioner may file written
16 objections with the court. The document should be captioned "Objections to Findings and
17 Recommendations." Petitioner is advised that failure to file objections within the specified
18 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
19 (9th Cir. 1991).

20 Dated: July 17, 2014

21 /s/ Gregory G. Hollows

22 UNITED STATES MAGISTRATE JUDGE

23 GGH:076/Mitch1438.103

24
25 ² Petitioner is cautioned that the habeas corpus statute imposes a one year statute of limitations
26 for filing non-capital habeas corpus petitions in federal court. In most cases, the one year period
27 will start to run on the date on which the state court judgment became final by the conclusion of
28 direct review or the expiration of time for seeking direct review, although the statute of
limitations is tolled while a properly filed application for state post-conviction or other collateral
review is pending. 28 U.S.C. § 2244(d).