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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KENNETH O. OWENS, JR.,  
Petitioner,  
v.  
STATE OF CALIFORNIA, et al.,  
Respondents.

No. 2:15-cv-1286 KJM GGH P

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 May 9, 2019, the magistrate judge filed findings and recommendations, which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within fourteen days. ECF No. 32. The magistrate judge recommended dismissal of the action for failure to exhaust administrative remedies. *Id.* Petitioner filed objections asserting that he exhausted state court remedies with two California Supreme Court habeas corpus petitions, Case Nos. 5234384 and 5232389. ECF No. 33. By order filed July 24, 2019, this court ordered petitioner to supplement his objections by filing a copy of

1 each California Supreme Court petition referred to in his objections. July 24, 2019 Order, ECF  
2 No. 34, at 2.

3 On August 1, 2019, petitioner filed a copy of the petition filed in California Supreme  
4 Court Case No. 5232389. ECF No. 35. On August 12, 2019, petitioner filed a copy of the  
5 petition filed in California Supreme Court Case No. 5234384. ECF No. 36. After *de novo*  
6 review, *see* 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court finds petitioner's federal  
7 claims were fairly presented to the California Supreme Court in Case No. 5232389 and that  
8 petitioner has exhausted his state court remedies. Accordingly, this matter will be referred back  
9 to the assigned magistrate judge for further proceedings on petitioner's second amended petition  
10 and petitioner's August 5, 2020 request to file supplemental evidence, ECF No. 38.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. The May 9, 2019 findings and recommendations are NOT ADOPTED; and
- 13 2. This matter is referred back to the assigned magistrate judge for further proceedings  
14 on petitioner's second amended petition, ECF No. 29, and petitioner's August 5, 2020  
15 request to file supplemental evidence, ECF No. 38.

16 IT IS SO ORDERED.

17 DATED: September 28, 2021.

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20 CHIEF UNITED STATES DISTRICT JUDGE  
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