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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS CRUZ,  
Petitioner,  
v.  
WILLIAM MUNIZ,  
Respondent.

No. 2:16-cv-0498-TLN-AC P

ORDER

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 February 23, 2017, 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 ten days. ECF No. 19. 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:

1. The findings and recommendations filed February 23, 2017 (ECF No. 19), are adopted in full.

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2. Petitioner’s motion for a stay (ECF No. 16) is denied.

3. Respondent’s motion to dismiss (ECF No. 11) is granted in part.

4. The following claims and any included sub-claims are dismissed as unexhausted:  
Grounds One, Two, Three, and Five.

5. Respondent is directed to file a response to Petitioner’s habeas petition addressing the remaining, properly exhausted claim (Ground 4) within sixty days from the date this Order. See Rule 4, Fed. R. Governing § 2254 Cases. An answer shall be accompanied by all transcripts and other documents relevant to the issues presented in the petition. See Rule 5, Fed. R. Governing § 2254 Cases.

6. Petitioner is directed to file a reply, if any, within thirty days after service of the answer.

7. The Court declines to issue the certificate of appealability referenced in 28 U.S.C. § 2253.

Dated: March 20, 2017



Troy L. Nunley  
United States District Judge