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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL JOSEPH VALINE,
Petitioner,
v.
WILLIAM L. MUNIZ,
Respondent.

No. 2:16-cv-01027-MCE-EFB P

ORDER

Petitioner, a state prisoner proceeding pro se, has filed this 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 14, 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 fourteen days. Petitioner has filed objections to the findings and recommendations. These objections do not substantively address the magistrate judge’s recommendation. Instead, they request a certificate of appealability in the event this petition is ultimately denied. This request is untimely. Petitioner may address whether a certificate should issue once the court rules on his petition.

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 entire file, the

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

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The findings and recommendations filed February 14, 2017, are adopted in full.
- 5 2. Respondent's motion to dismiss (ECF No. 13) is denied as moot.
- 6 3. The motion to stay (ECF No. 2), which was predicated on this petition being "mixed,"
7 is denied as moot.
- 8 4. This action proceeds only on petitioner's first, fourth, and fifth claims. These are,
9 specifically, that: (1) he was convicted by the testimony of an accomplice that was not
10 sufficiently corroborated; (4) that his trial counsel was constitutionally ineffective in
11 failing to object before and during the trial to the unlawful search and seizure of
12 petitioner's cell phone text records; and (5) that the Sacramento County Sheriff
13 unlawfully obtained a statement from Justine Valine by interrogating him while he
14 was not in his right state of mind. All other claims contained in the petition are dismissed without
15 prejudice.

16 IT IS SO ORDERED.

17 Dated: March 23, 2017

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19 MORRISON C. ENGLAND, JR.
20 UNITED STATES DISTRICT JUDGE
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