

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JERRY LEE KING,
Petitioner,
v.
DAVE DAVEY,
Respondent.

No. 2:16-cv-1464-WBS-EFB P

ORDER

Petitioner, a state prisoner proceeding without counsel, 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 12, 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. 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 July 12, 2017, are adopted in full;

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 2. The April 14, 2017 motion to stay (ECF No. 40) is DENIED, and the amended petition is dismissed with leave to amend to allow petitioner the opportunity to file a fully exhausted petition and then seek a stay under Kelly v. Small, 315 F.3d 1063 (9th Cir. 2002).
- 3. Petitioner has filed a second amended petition during the period between the magistrate judge's findings and recommendations and this order adopting those findings and recommendations. ECF No. 51. Accordingly, respondent is directed to file and serve a response to the second amended petition within 60 days. Petitioner's reply, if any, shall be filed and served within 30 days of service of an answer.

Dated: August 29, 2017



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE