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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RANDY KEITH McCORKLE,
Petitioner,
v.
SPEARMAN,
Respondent.

No. 2:16-cv-2368-JAM-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 August 31, 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 August 31, 2017, are adopted in full;

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2. Respondent’s December 6, 2016 motion to dismiss for failure to exhaust (ECF No. 13) is denied;

3. Respondent is directed to file and serve either an answer or a motion in response to petitioner’s amended petition (ECF No. 21) within 60 days from the date of this order. Any response shall be accompanied by any and all transcripts or other documents relevant to the determination of the issues presented in the application;

4. Petitioner is directed to file and serve his reply, if any, to respondent’s answer within 30 days of service of the answer; and

5. If the response to petitioner’s amended petition is a motion, petitioner is directed to file an opposition or statement of non-opposition within 30 days of service of the motion, and respondent be directed to file his reply, if any, within 14 days thereafter .

DATED: September 28, 2017

/s/ John A. Mendez
UNITED STATES DISTRICT COURT JUDGE