

1 application. 28 U.S.C. § 2244(b)(3). Therefore, petitioner’s application must be dismissed
2 without prejudice to its re-filing upon obtaining authorization from the United States Court of
3 Appeals for the Ninth Circuit.

4 To the extent petitioner asserts that he is challenging the outcome of the previous *federal*
5 case by making a claim for ineffective assistance of counsel in the *federal* habeas proceedings, no
6 claim for ineffective assistance of counsel in collateral habeas proceedings exists. See
7 Wainwright v. Torna, 455 U.S. 586 (1982). Petitioner cannot simply try a backdoor method to
8 have the court review once again his previous state habeas claims.

9 In accordance with the above, IT IS HEREBY ORDERED that petitioner’s application to
10 proceed in forma pauperis (ECF No. 7) is granted; and

11 IT IS RECOMMENDED that this action be dismissed without prejudice.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
14 after being served with these findings and recommendations, petitioner may file written
15 objections with the court. The document should be captioned “Objections to Magistrate Judge’s
16 Findings and Recommendations.” Petitioner is advised that failure to file objections within the
17 specified time may waive the right to appeal the District Court’s order. Martinez v. Ylst, 951
18 F.2d 1153 (9th Cir. 1991).

19 Dated: March 19, 2019

20 /s/ Gregory G. Hollows
21 UNITED STATES MAGISTRATE JUDGE
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