



1 shows that petitioner's petition for review was denied by that court on February 17, 2021.<sup>1</sup> The  
2 original petition in this case was entered on the docket on June 14, 2021. ECF No. 1.

3 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this  
4 court has conducted a *de novo* review of this case. Having reviewed the file, the court concludes  
5 that the petition must be dismissed. The state court of appeal opinion sets out the claims  
6 petitioner raised on direct appeal from his conviction. ECF No. 18 at 2-3.<sup>2</sup> The original form  
7 petition filed in this action is dated March 5, 2021, ECF No. 1 at 6, sixteen days after the  
8 California Supreme Court denied review. The court therefore concludes that to the extent  
9 petitioner is attempting to challenge his underlying conviction, he has not exhausted state court  
10 remedies as to any of the claims presented to this court. It is also clear from the original petition  
11 that petitioner did not exhaust state court remedies for any challenge to the length of his sentence  
12 prior to filing this action. *Id.* at 3. Exhaustion of state court remedies is a necessary prerequisite  
13 to seeking federal habeas corpus relief. *See* 28 U.S.C. § 2254. Accordingly, this action must be  
14 dismissed.

15 It would not be debatable among jurists of reason that petitioner has failed to exhaust his  
16 state court remedies and, therefore, this court declines to issue a certificate of appealability under  
17 28 U.S.C. § 2253. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. The findings and recommendations filed August 2, 2021, ECF No. 15, are adopted to  
20 the extent consistent with this order;

21 2. This action is dismissed; and

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25 <sup>1</sup> This court properly takes judicial notice of court records from petitioner's state criminal  
26 proceedings. *See United States v. Howard*, 381 F.3d 873, 876 n.1 (9th Cir. 2004).

27 <sup>2</sup> In this order, citations to page numbers in documents filed in the Court's Electronic Case Filing  
28 (ECF) system are to the page number assigned by ECF and located in the upper righthand corner  
of the page.

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3. This court declines to issue a certificate of appealability under 28 U.S.C. § 2253.

DATED: May 31, 2022.

  
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CHIEF UNITED STATES DISTRICT JUDGE