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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHARLES C. REED,
Petitioner,
v.
DANIEL CUEVA,
Respondent.

No. 2:21-cv-01402 DB P

ORDER

Petitioner, a state prisoner, seeks habeas corpus relief pursuant to 28 U.S.C. § 2254 pertaining to his 2017 arson conviction in the Sacramento County Superior Court. On December 16, 2021, this case was reassigned to the undersigned magistrate judge for further proceedings. (ECF No. 7.)

By petition filed on August 6, 2021 (ECF No. 1), petitioner raised four grounds for relief and admitted that grounds two, three, and four were unexhausted. (See ECF No. 1 at 6.) By order dated August 30, 2021 (ECF No. 4), the court determined the petition was a mixed petition containing both exhausted and unexhausted claims. Petitioner was directed to inform the court whether he would move to withdraw his unexhausted claims and proceed only with his exhausted claims, or, in the alternative, whether he would seek a stay to return to state court in order to attempt to exhaust administrative remedies on the unexhausted claims.

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In response to the court’s order, petitioner has filed a request to amend his petition seeking to proceed only with his exhausted ground for relief. (ECF No. 6.) Petitioner’s request will be granted. This case will proceed only on petitioner’s exhausted claim: ground one in the petition, that the trial court’s jury instructions lowered the prosecution’s burden of proof.

In accordance with the above, IT IS HEREBY ORDERED:

1. Petitioner’s request to amend (ECF No. 6) is granted; and
2. This case is now proceeding only on petitioner’s exhausted claim, ground one of the petition filed on August 6, 2021.

Dated: January 7, 2022

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE