

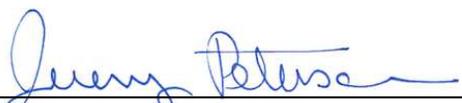
1 It is ORDERED that the Clerk of Court shall substitute Patrick Covello as respondent in
2 this action.

3 Further, it is RECOMMENDED that respondent's third claim, identified above as the trial
4 court's failure to give *sua sponte* instructions on lesser included offenses, be dismissed. If these
5 recommendations are adopted, I will set a schedule for respondent to answer the remaining,
6 exhausted claims.

7 These findings and recommendations are submitted to the U.S. district judge presiding
8 over the case under 28 U.S.C. § 636(b)(1)(B) and Local Rule 304. Within fourteen days of the
9 service of the findings and recommendations, the parties may file written objections to the
10 findings and recommendations with the court and serve a copy on all parties. That document
11 must be captioned "Objections to Magistrate Judge's Findings and Recommendations." The
12 presiding district judge will then review the findings and recommendations under 28 U.S.C.
13 § 636(b)(1)(C).

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15 IT IS SO ORDERED.

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17 Dated: November 27, 2022


18 JEREMY D. PETERSON
19 UNITED STATES MAGISTRATE JUDGE
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