

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

NOAH WAYNE BINGAMAN,  
  
  Petitioner,  
  
  v.  
  
WARDEN,  
  
  Respondent.

No. 2:23-cv-01796-TLN-EFB

**ORDER**

Petitioner, a county jail inmate proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. 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 October 31, 2023, the magistrate judge filed findings and recommendations herein which were served on Petitioner, and which contained notice to Petitioner that any objections to the findings and recommendations were to be filed within fourteen days. Petitioner filed objections to the findings and recommendations. Specifically, Petitioner stated, after filing his 2241 petition in federal court, he had a bail review hearing in the state trial court, and therefore exhausted his available state remedies. (ECF Nos. 8–9.)

As the findings and recommendations of the magistrate judge stated, “courts in this district have generally held that requiring exhaustion of section 2241 claims is the most prudent option.” ECF No. 7 (citing, *inter alia*, *Toft v. D’Agostini*, 2022 WL 1433525, at 1-2 (E.D. Cal.

1 April 8, 2022)). Thus, before seeking relief under section 2241, ““habeas petitioners [must]  
2 exhaust all available judicial and administrative remedies.”” *Hawkins v. Kao*, 2022 WL  
3 17541033, at \*4 (C.D. Cal. Oct. 20, 2022) (quoting *Ward v. Chavez*, 678 F.3d 1042, 104, 678  
4 F.3d 1042, 104, 678 F.3d 1042, 1045 (9<sup>th</sup> Cir. 2012).

5 While Petitioner may have had a bail review hearing before the state trial court, he does  
6 not appear to have appealed his bail denial to the Court of Appeal, as provided for under  
7 California law. *See, e.g. In re Harris*, 71 Cal. App. 5<sup>th</sup> 1085, 1094-95 (2021). Thus, Petitioner  
8 has not yet fully exhausted his available state remedies, which he must do before filing an  
9 application for writ of habeas corpus in federal court.

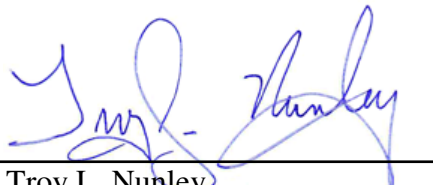
10 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this  
11 Court has conducted a *de novo* review of this case and addressed petitioner’s objections. Having  
12 carefully reviewed the entire file, the Court finds the findings and recommendations to be  
13 supported by the record and by proper analysis.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. The findings and recommendations filed October 31, 2023 (ECF No. 7) are  
16 ADOPTED, in conjunction with the analysis of petitioner’s objections contained in  
17 this Order;
- 18 2. The petition is DISMISSED without prejudice,
- 19 3. The Clerk of Court is directed to close the case, and
- 20 4. The Court DECLINES to issue a certificate of appealability.

21 Date: December 4, 2023

22  
23  
24  
25  
26  
27  
28



---

Troy L. Nunley  
United States District Judge