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8	UNITED STATES DISTRICT COURT		
9	FOR THE EASTERN DISTRICT OF CALIFORNIA		
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11	JORGE ALEJANDRO VASQUEZ,	No. 2:24-cv-02818-SCR P	
12	Petitioner,		
13	V.	ORDER AND	
14	UNKNOWN,	FINDINGS AND RECOMMENDATIONS	
15	Respondent.		
16			
17	Petitioner, a state prisoner, proceeds without counsel and filed a petition for writ of habeas		
18	corpus under 28 U.S.C. § 2254. (ECF No. 1.) Petitioner paid the filing fee.		
19	The exhaustion of state court remedies is a prerequisite to the granting of a petition for		
20	writ of habeas corpus. 28 U.S.C. § 2254(b)(1). If exhaustion is to be waived, it must be waived		
21	explicitly by respondent's counsel. 28 U.S.C. § 2254(b)(3). ¹ A waiver of exhaustion, thus, may		
22	not be implied or inferred. A petitioner satisfies the exhaustion requirement by providing the		
23	highest state court with a full and fair opportunity to consider all claims before presenting them to		
24	the federal court. Picard v. Connor, 404 U.S. 270, 276 (1971); Middleton v. Cupp, 768 F.2d		
25	1083, 1086 (9th Cir. 1985), cert. denied, 478 U.S. 1021 (1986).		
26	After reviewing the petition for habeas corpus, the court finds petitioner has failed to		
27	¹ A petition may be denied on the merits without exhaustion of state court remedies. 28 U.S.C. §		
28	2254(b)(2).		
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1	exhaust state court remedies on all three grounds for relief. (ECF No. 1.) Petitioner's first ground		
2	for relief has not been presented to any state court. (Id. at 7.) Petitioner's second ground for		
3	relief is pending before the California Court of Appeal. (Id. at 8.) Petitioner's third ground for		
4	relief has not been presented to any state court. (Id. at 10.)		
5	There is no allegation that state court remedies are no longer available to petitioner.		
6	Accordingly, the petition should be dismissed without prejudice. ²		
7	Good cause appearing, IT IS HEREBY ORDERED that:		
8	1. The Clerk of the Court assign a district judge to this case; and		
9	2. The Clerk of the Court is directed to serve a copy of these findings and		
10	recommendations together with a copy of the petition filed in the instant case on the Attorney		
11	General of the State of California; and		
12	In addition, IT IS HEREBY RECOMMENDED that petitioner's application for a writ of		
13	habeas corpus be dismissed for failure to exhaust state remedies.		
14	These findings and recommendations will be submitted to the United States District Judge		
15	assigned to this case, pursuant to the provisions of 28 U.S.C. § 636(b)(l). Within 21 days after		
16	being served with these findings and recommendations, petitioner may file written objections		
17	with the court. The document should be captioned "Objections to Findings and		
18	Recommendations." Petitioner is advised that failure to file objections within the specified		
19	time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153		
20	(9th Cir. 1991).		
21	Dated: November 22, 2024		
22	Jan Kindu		
23	SEAN C. RIORDAN		
24	UNITED STATES MAGISTRATE JUDGE		
25	$\frac{1}{2}$ Petitioner is cautioned that the habeas corpus statute imposes a one-year statute of limitations		
26	for filing non-capital habeas corpus petitions in federal court. In most cases, the one-year period will start to run on the date on which the state court judgment became final by the conclusion of		
27	direct review or the expiration of time for seeking direct review, although the statute of limitations is tolled while a properly filed application for state post-conviction or other collateral		
28	review is pending. 28 U.S.C. § 2244(d).		