

1 (*Id.* at 145.) To the extent that Subclaim 1Z incorporates Subclaim 1D, Subclaim 1Z is
2 unexhausted. However, Subclaim 1Z is otherwise exhausted, as it is a component of the
3 cumulative-error claims presented to the Supreme Court of California, (Doc. No. 13 at
4 AG011016, AG012079–82).

5 The parties agree, and the Court finds and concludes, that Claims 2–10, 13–21, and
6 25–28¹ are exhausted. The parties agree, and the Court finds and concludes, that Claims 11, 12,
7 and 22–24 are unexhausted.

8 The parties dispute whether Claim 30 is exhausted. In that claim, Petitioner alleges that
9 his initial state habeas petition was dismissed without an evidentiary hearing even though he
10 raised material issues of fact. (Doc. No. 21 at 288.) In the state petition, Petitioner requested an
11 evidentiary hearing and alleged that the state court failed to hold an evidentiary hearing. (Doc.
12 No. 13 at AG12081, AG12122.) However, he did not allege that the petition already had been
13 dismissed or that dismissal without holding an evidentiary hearing constitutes an independent
14 basis for habeas relief. Accordingly, Claim 30 is unexhausted.

15 Claim 29 is a cumulative-error claim. (Doc. No. 21 at 286–88.) The parties agree that
16 this claim is exhausted. However, to the extent that it incorporates Subclaim 1D, Subclaim 1Z
17 (to the extent that it incorporates Subclaim 1D), and Claims 11, 12, 22–24, and 30, Claim 29 is
18 unexhausted; only the remainder of Claim 29 is exhausted.

19 Within thirty days from the date this order is filed, the parties shall file a joint case-
20 management statement that contains a proposed schedule for further proceedings in this action.

21 *It is so ordered.*

22
23 DATED: June 20, 2013

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WILLIAM H. ALSUP
United States District Judge

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26 ¹ There are two claims numbered 28 in the Petition, presumably due to a typographical error. The
27 first Claim 28 appears between Claims 25 and 26; in it, Petitioner alleges that his conviction and sentence
28 violate international law. (Doc. No. 21 at 276–77.) The second Claim 28 appears between Claims 27 and
29; in it, Petitioner alleges that the method of execution in California is unlawful. (*Id.* at 282–86.) Both
claims are exhausted.