

1 133-34 (1987). To exhaust state judicial remedies, a California state prisoner must present the
2 California Supreme Court with a fair opportunity to rule on the merits of every issue raised in
3 his or her federal habeas petition. See 28 U.S.C. § 2254(b), (c); Granberry, 481 U.S. at 133-34.
4 Moreover, to properly exhaust state court judicial remedies a petitioner must allege, in state
5 court, how one or more of his or her federal rights have been violated. The Supreme Court in
6 Duncan v. Henry, 513 U.S. 364 (1995) reasoned: “If state courts are to be given the opportunity
7 to correct alleged violations of prisoners’ federal rights, they must surely be alerted to the fact
8 that the prisoners are asserting claims under the United States Constitution.” Id. at 365-66
9 (emphasis added). For example, “[i]f a habeas petitioner wishes to claim that an evidentiary
10 ruling at a state court trial denied him the due process of law guaranteed by the Fourteenth
11 Amendment, he must say so, not only in federal court, but in state court.” Id. (emphasis added).

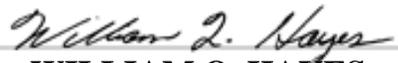
12 In the First Amended Petition, Petitioner indicates that he has not presented any of his
13 claims to the California Supreme Court. (See First Amended Petition at pp. 6, 21 & 28.) The
14 Court must dismiss petitions which contain only unexhausted claims. Rasberry v. Garcia, 448
15 F.3d 1150, 1154 (9th Cir. 2006) (“Once a district court determines that a habeas petition contains
16 only unexhausted claims, . . . it may simply dismiss the petition for failure to exhaust), citing
17 Jiminez v. Rice, 276 F.3d 478, 481 (9th Cir. 2001) (holding that court must dismiss petition
18 containing no exhausted claims).

19 **CONCLUSION**

20 Accordingly, the Court **DISMISSES** the Petition without prejudice due to Petitioner’s
21 failure to exhaust state court remedies. The dismissal is without further leave to amend in this
22 action. If Petitioner wishes to proceed with his claims on federal habeas, he must file a new
23 federal habeas petition, which will be assigned a new civil case number, after he has exhausted
24 his state court remedies.

25 **IT IS SO ORDERED.**

26 DATED: October 27, 2010

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28 **WILLIAM Q. HAYES**
United States District Judge