

Case No. 5:10-CV-00191
Gwin, J.

may adopt the magistrate judge's report without review. [See Thomas, 474 U.S. at 149.](#)

In this case, Petitioner Amell has indicated that he will not be objecting to the Magistrate Judge's recommendation and will not pursue his issues further. [[Doc. 7.](#)] Moreover, having conducted its own review of the record and the parties' briefs, the Court agrees with the recommendation of Magistrate Judge Knepp that the petition should be dismissed. The Petitioner procedurally defaulted grounds two, three, four, six and seven of his petition; ground one asserts a violation of state law not cognizable in this action; and ground five fails on the merits because the state appeals court did not unreasonably apply federal law in determining there was no double jeopardy violation. [[Doc. 6.](#)]

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Knepp's Report and Recommendation and **DENIES** Petitioner Amell's petition for a writ of habeas corpus. Further, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith, and no basis exists upon which to issue a certificate of appealability. [28 U.S.C. § 2253\(c\)](#); [Fed. R. App. P. 22\(b\)](#).

IT IS SO ORDERED.

Dated: December 17, 2010

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE