UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

STEPHEN MARK PICART, Petitioner-Appellant, v. MARCUS POLLARD, Warden, Respondent-Appellee.	No. 23-55025 D.C. No. 2:21-cv-03367-DSF-AGR Central District of California, Los Angeles ORDER

Before: CANBY and DESAI, Circuit Judges.

The request for a certificate of appealability is denied because appellant has not shown that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also* 28 U.S.C. § 2253(c)(2); *Gonzalez v. Thaler*, 565 U.S. 134, 140-41 (2012).

Any pending motions are denied as moot.

DENIED.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

STEPHEN MARK PICART,

Petitioner,

v.

MARCUS POLLARD, Warden,

Respondent.

No. CV 21-3367-DSF (AGR)

REPORT AND RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

The court submits this Report and Recommendation to the Honorable Dale S. Fischer, United States District Judge, pursuant to 28 U.S.C. § 636 and General Order No. 05-07 of the United States District Court for the Central District of California. For the reasons set forth below, it is recommended that the Court grant Respondent's motion to dismiss the First Amended Petition for Writ of Habeas Corpus ("FAP") as untimely, deny Petitioner's request to amend the FAP, and dismiss this action with prejudice.

I.

PROCEDURAL BACKGROUND

On April 27, 2009, a Los Angeles County Superior Court jury found Petitioner guilty of first degree murder of his girlfriend and second degree murder of her fetus (Cal. Penal Code §§ 187(a), 189). (Lodged Document ("LD") 9 at 16 (Case No. TA093015).)[1] The jury also found special circumstances and the firearm allegation to be true. (*Id.*) On May 22, 2009, the court sentenced Petitioner to an aggregate sentence of life without possibility of parole plus 65 years in prison. (*Id.* at 16-17.)[2]

The California Court of Appeal affirmed the judgment in an unpublished decision on April 8, 2010 (LD 1, Case No. B216448), and the California Supreme Court denied the petition for review on June 23, 2010 (LD 2, Case No. S182717).

A. State Habeas Proceedings

Petitioner pursued habeas relief in the state courts.

The Superior Court denied Petitioner's habeas petitions on September 20, 2010 and November 16, 2010. (LD 9 at 19-20; *see* Dkt. No. 1 at 87.)

On March 6, 2019, Petitioner filed a "motion to vacate an illegal conviction and sentence for lack of subject matter jurisdiction," which the Superior Court deemed a habeas petition and summarily denied on March 25, 2019. (LD 9 at 21-22.) On April 10, 2019, Petitioner filed a "motion for restitution hearing for reconsideration of ability to pay and constitutionality of excessive fines," which the court denied on April 29, 2019. (*Id.* at 23.) On January 13, 2020, the California Court of Appeal dismissed Petitioner's appeal of the two rulings in an unpublished decision, finding both orders unappealable.

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[1] Page citations are to the page numbers assigned by the CM/ECF system in the header.

[2] The court imposed the life sentence for first degree murder, a 15-years-to-life sentence for second degree murder, and a consecutive 25 years to life for the Cal. Penal Code § 12022.53(d) enhancement for each murder count. (LD 1 at 1.)

(LD 8, Case No. B298655.)[3] On April 15, 2020, the California Supreme Court denied the petition for review. (LD 18, 19, Case No. S260930.)

On June 13, 2019, the Superior Court summarily denied a second habeas petition filed on June 3, 2019. (LD 9 at 25-27.)[4] On December 10, 2019, the Superior Court summarily denied two requests for reconsideration of the ruling on the petition. (LD 9 at 28.) On January 21, 2020, the Superior Court summarily denied Petitioner's (third) December 24, 2019 habeas petition. (LD 9 at 28-29.) On March 3, 2020, the Superior Court summarily denied Petitioner's (fourth) February 5, 2020 habeas petition. (LD 9 at 29.)

Petitioner subsequently filed and the state appellate courts summarily denied four more habeas petitions. The California Court of Appeal denied Petitioner's December 24, 2019 habeas petition on January 21, 2020 (Case No. B303202), and his July 15, 2020 habeas petition on July 20, 2020 (Case No. B306616). (LD 4, 5, 13, 14.) The California Supreme Court summarily denied Petitioner's March 4, 2020 habeas petition on June 24, 2020 (Case No. S261045), and his September 14, 2020 habeas petition on March 10, 2021 (Case No. S264444). (LD 6, 7, 15, 16.)

B. Federal Habeas Proceedings

On March 17, 2021, Petitioner filed a Petition for Writ of Habeas Corpus by a Person in State Custody ("Petition") in the United States Court of Appeals for the Ninth Circuit. On April 19, 2021, the Ninth Circuit transferred the Petition to this court pursuant to Fed. R. App. 22(a) and 28 U.S.C. §§ 1631, 2241(b). The Petition was deemed filed in this court on March 17, 2021. (Dkt. No. 2.)

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[3] Petitioner's appointed counsel submitted a *Wende* brief and Petitioner filed two supplemental briefs. (LD 8 at 2.)

[4] Relevant here, Petitioner argued that: trial counsel was ineffective for failing to investigate evidence that Petitioner was "incompetent" during the trial; trial counsel was ineffective for failing to hire an investigator and conduct an adequate pretrial investigation; and appellate counsel was ineffective in failing to allege and argue the instructional error committed by the trial court. (LD 9 at 26.)

On June 17, 2021, Respondent filed a motion to dismiss the Petition as barred by the statute of limitations. (Dkt. No. 15.) On June 11, 2021, Petitioner filed two motions for leave to file an amended petition. (Dkt. Nos. 13-14.) On June 17, 2021, the court granted Petitioner's request for leave to file an amended petition and suspended briefing on Respondent's motion to dismiss the original petition. (Dkt. No. 17.)

On September 8, 2021, Petitioner filed a First Amended Petition ("FAP"). (Dkt. No. 23.) The court denied Respondent's motion to dismiss the original petition as moot. (Dkt. No. 24.)

On September 30, 2021, Respondent filed a motion to dismiss the FAP. (Dkt. No. 25.) Petitioner filed an opposition. (Dkt. No. 45.) Respondent did not file a reply.

Meanwhile, on September 14, 2021, Petitioner constructively filed a document that stated the FAP was "incomplete" and asked that the court "disregard" the FAP and substitute the attached petition.[5] (Dkt. No. 29 ("proposed SAP").) Respondent filed an opposition. (Dkt. No. 47.) Petitioner did not file a reply.

The court took the motions under submission.

II.

TIMELINESS

The FAP was filed after enactment of the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). Therefore, the court applies the AEDPA in reviewing the FAP. *See Lindh v. Murphy*, 521 U.S. 320, 336 (1997).

The AEDPA contains a one-year statute of limitations for a petition for writ of habeas corpus filed in federal court by a person in custody pursuant to a judgment of a state court. 28 U.S.C. § 2244(d)(1). The one-year period starts running on the latest of either the date when a conviction becomes final under 28 U.S.C. § 2244(d)(1)(A) or on a date set in § 2244(d)(1)(B)-(D).

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[5] Petitioner also filed a motion for appointment of counsel and a motion for exculpatory evidence. (Dkt. Nos. 28, 41.) The motions were denied by separate orders. (Dkt. Nos. 31, 48.)

A. The Date on Which Conviction Became Final – § 2244(d)(1)(A)

The California Supreme Court denied the petition for review on June 23, 2010. (LD 2.) Petitioner's conviction became final 90 days later on September 21, 2010. *See Bowen v. Roe*, 188 F.3d 1157, 1158-59 (9th Cir. 1999). The one-year statute of limitations expired one year later on September 21, 2011. Petitioner constructively filed his FAP almost 10 years later, on September 8, 2021.[6] Absent tolling, the FAP is time-barred.

1. Statutory Tolling

The statute of limitations is tolled during the time "a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending." 28 U.S.C. § 2244(d)(2). Petitioner filed two state habeas petitions in the Superior Court before the statute of limitations expired. On September 20, 2010, the Superior Court denied the habeas petition it received on September 13, 2010. On November 16, 2010, the Superior Court denied the habeas petition it received on September 29, 2010. (LD 9 at 19-20.) Assuming the petitions were properly filed,[7] and further assuming Petitioner constructively filed the second habeas petition by September 21, 2010, Petitioner would be entitled to statutory tolling until November 16, 2010 and the one-year statute of limitations expired on November 16, 2011.

Petitioner is not entitled to statutory tolling for any of his later state court habeas petitions because they were filed after the statute of limitations had run. *See Green v. White*, 223 F.3d 1001, 1003 (9th Cir. 2000) (state habeas petition did not toll statute "because the limitations period had already run"). Accordingly, the FAP remains untimely.

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[6] Relation back does not assist Petitioner because the original Petition, filed on March 17, 2021, is also untimely.

[7] The docket contains no information other than the fact that the Superior Court adjudicated a habeas petition received on the specified dates.

2. Equitable Tolling

"[T]he timeliness provision in the federal habeas corpus statute is subject to equitable tolling." *Holland v. Florida,* 560 U.S. 631, 634 (2010). "[A] 'petitioner' is 'entitled to equitable tolling' only if he shows '(1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way' and prevented timely filing." *Id.* at 649 (quoting *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005)). "The diligence required for equitable tolling purposes is "reasonable diligence," not "maximum feasible diligence." *Id.* at 653 (citations and quotation marks omitted). The extraordinary circumstances must have been the cause of an untimely filing. *Pace*, 544 U.S. at 418; *Smith v. Davis*, 953 F.3d 582, 600 (9th Cir. 2020) (en banc) ("it is only when an extraordinary circumstance prevented a petitioner acting with reasonable diligence from making a timely filing that equitable tolling may be the proper remedy").

For purposes of equitable tolling, the court examines the period beginning September 21, 2010, when Petitioner's conviction became final, through September 8, 2021, when Petitioner constructively filed the FAP.

Although Petitioner relies on his medical records, he has not shown that his mental health or medical conditions prevented timely filing during this period. Indeed, in the many years since Petitioner's judgment of conviction became final, Petitioner filed about a dozen state habeas petitions or other post-conviction motions in 2010, 2019 and 2020. During this relevant time period, the medical records show a syncope episode on December 22, 2019.[8] At the hospital, Petitioner felt fine and had no slurred speech or facial droop. He stated that he occasionally gets dizzy when he gets up too fast. He has sickle cell trait, GERD and a history of hypotension. Petitioner's physical examination, CT scan of the head, and EKG were normal other than chronic sinusitis. He was diagnosed with acute syncope and acute vasovagal reaction, and discharged in stable condition. (Dkt. No. 23-1 at 1-2, 4, 8; *see* Dkt. No. 45 at 97-117 (attaching same

[8] Previously, on March 18, 2019, Petitioner was seen for abnormal weight loss, allergic rhinitis, and a facial tic. He was continued on medications. (Dkt. No. 1 at 57-58.)

records).) Petitioner points to nothing in the medical record indicating that he was prevented from preparing and filing a petition for writ of habeas corpus for any appreciable length of time since his conviction became final. The medical records do not support equitable tolling for a period of almost a decade.

In the absence of medical evidence during the relevant period, Petitioner instead attaches medical records showing that he had serious mental health episodes after the jury verdict on April 27, 2009.[9] (LD 9 at 10-16 (minutes of jury trial); Dkt. No. 45 at 43-62 (medical records for April 28-30, 2009; May 9-11, 2009; May 24-May 31, 2009; and June 17, 2009). Because these episodes occurred in 2009 (before Petitioner's conviction became final on September 21, 2010) and because the medical records during the relevant period do not indicate mental health episodes even remotely comparable, the medical record does not raise a reasonable inference that Petitioner had an impediment that prevented him from timely filing a petition for writ of habeas corpus during the relevant period.

Moreover, Petitioner has not showed that he was reasonably diligent throughout the limitations period, as he offers no facts showing he attempted to pursue his claims before, during or after any alleged mental health-related impediments. To satisfy the first element of diligence, a petitioner "must show that he has been reasonably diligent in pursuing his rights not only while an impediment to filing caused by an extraordinary circumstance existed, but before and after as well, up to the time of filing his claim in federal court." *Smith*, 953 F.3d at 598-99.

Accordingly, Petitioner has not shown that he is entitled to equitable tolling.

B. Date of Discovery – 28 U.S.C. § 2244(d)(1)(D)

In the context of an ineffective assistance of counsel claim, the statute of limitations may start to run on the date a petitioner discovered (or could have discovered) the factual predicate for a claim that his counsel's performance was

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[9] The record does indicate a court order for a neurological examination, EEG, MRI and PET brain scan prior to trial on March 23, 2009. (Dkt. No. 45 at 61; *see also* LD 9 at 9.)

deficient, or on the date a petitioner discovered (or could have discovered) the factual predicate for prejudice, whichever is later. *See Hasan v. Galaza*, 254 F.3d 1150, 1155 (9th Cir. 2001). Therefore, the statute of limitations begins to run on "the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence." 28 U.S.C. § 2244(d)(1)(D). The statute starts to run when the petitioner knows or through diligence could discover the important facts, not when the petitioner recognizes their legal significance. *See Hasan*, 254 F.3d at 1154 n.3.

Petitioner alleges his trial counsel was ineffective because, among other things, counsel failed to initiate competency proceedings and failed to present Petitioner's April 2009 letter to the court. (Dkt. No. 23 at 5-6, 12-15.)

Petitioner was aware of the factual predicates of his claim of ineffective assistance of trial counsel at the time of his trial. Accordingly, the date of discovery does not assist Petitioner.

Moreover, as discussed below, the purportedly newly discovered evidence on which Petitioner relies has no bearing on his ineffective assistance claim, or on the underlying issues of the ability to form the requisite mens rea for murder, competency to stand trial, or an insanity defense.

C. Actual Innocence

"[A]ctual innocence, if proved, serves as a gateway through which a petitioner may pass . . . the impediment . . . of the statute of limitations." *McQuiggin v. Perkins*, 569 U.S. 383 (2013). "[T]enable actual-innocence gateway pleas are rare: '[A] petitioner does not meet the threshold requirement unless he persuades the district court that, in light of the new evidence, no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt." *Id* at 386. (quoting *Schlup v. Delo*, 513 U.S. 298, 329 (1995); citing *House v. Bell*, 547 U.S. 518, 538 (2006) (emphasizing that the *Schlup* standard is 'demanding' and seldom met)).

To satisfy the standard, a petitioner must present "'new reliable evidence.'" *House*, 547 U.S. at 537. Based on all the evidence, both old and new, "the court must make 'a probabilistic determination about what reasonable, properly instructed jurors would do.'" *Id.* at 538 (citation omitted). "The court's function is not to make an independent factual determination about what likely occurred, but rather to assess the likely impact of the evidence on reasonable jurors." *Id.* Petitioner must establish actual innocence by clear and convincing evidence.

Petitioner states that the FAP is timely on account of "factual innocence." (Dkt. No. 23 at 26.) He claims that, in light of the newly discovered evidence – the letter he gave trial counsel dated April 16, 2009 and his medical records from 2009 and 2019 – no rational trier of fact would have found him guilty beyond a reasonable doubt. (*Id.*)[10]

The exhibits to the Petition do not support Petitioner's contentions. Neither the letter nor the submitted medical records constitute newly discovered evidence. Moreover, none of the submitted documents support Petitioner's actual innocence claim.

1. April 16, 2009 Letter to Counsel

Petitioner contends that the letter he drafted and purportedly gave to counsel on April 16, 2009 (the first day of trial) shows that he is actually innocent of the crimes of which he was convicted. (Dkt. No. 23 at 6, 26-30.) Specifically, Petitioner believes the letter would have shown that he could not have formed the requisite mens rea for murder and that he was incompetent to stand trial. (*Id.*) In the letter, Petitioner describes the events leading up to the murder and states that, while talking to the victim, he blacked out and when he came to, the victim was slumped over the wheel and unresponsive. (*Id.* at 35-42.)

The April 2009 letter that Petitioner purportedly gave his trial counsel is not newly discovered evidence. Petitioner contends that he gave the letter to counsel. Having

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[10] Petitioner cited to *Jackson v. Virginia*, 443 U.S. 301 (1979) but does not argue that there was insufficient evidence to sustain his convictions. (*See id.*)

written the letter and given it counsel, Petitioner was clearly aware that it existed. To the extent Petitioner believed the letter to be relevant to his guilt or competence to stand trial, he was aware of its omission from the record by the time the trial concluded in April 2009. Petitioner does not explain why he waited almost a decade to bring it to the court's attention.

The letter is also not exculpatory. The unsworn letter merely contains a self-serving statement that Petitioner blacked out and, when he came to, the victim was dead. (Dkt. No. 23 at 41.)[11] As Respondent correctly points out, under California law, Petitioner's letter would have been inadmissible hearsay. (Dkt. No. 25 at 8 (*citing* Cal. Evid. Code § 1200).) Moreover, contrary to Petitioner's contention, the letter has no bearing on Petitioner's competence to stand trial.

2. Petitioner's Medical Records

Petitioner's reliance on his medical records to support his actual innocence claim is equally unavailing. The medical records consist of treatment notes from October 6, 2008 until August 16, 2009, and treatment notes for a syncope episode on December 22, 2019. (Dkt. No. 23 at 50-56; Dkt. No. 23-1 at 1-20; Dkt. No. 45 at 43-62.)

Like the letter, Petitioner's Los Angeles County Jail medical records from 2009 are not newly discovered evidence. Petitioner was aware of his medical condition at the time and had ample opportunity to introduce his medical history as evidence in collateral challenges to his conviction and sentence. *See McQuiggin*, 569 U.S. at 387 ("[F]ederal habeas court, faced with an actual-innocence gateway claim, should count unjustifiable delay on a habeas petitioner's part . . . as a factor in determining whether actual innocence has been reliably shown.").

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[11] Notably, Petitioner's contention that he was unconscious during the commission of the offense is also inconsistent with previously asserted argument on direct appeal that he had killed the victim in a heat of passion or because he was provoked. (*See* Dkt. No. 23 at 2, LD 1 at 4-6.)

Petitioner appears to argue that his reports of blackouts evidences that he was unconscious when he shot the victim and thus unable to form the requisite mens rea for murder, and that he lacked competence to stand trial. (Dkt. No. 23 at 26-30.)

a. Evidence of Petitioner's Blackouts

The submitted medical records evidence several occasions when Petitioner claimed to and/or was observed to have had blackouts or syncope episodes.

Beginning on April 28, 2009 at 5:14 A.M., a day after the jury reached the verdict, staff responded to a "man down" call in Petitioner's cell. (Dkt. No. 45 at 60.) Petitioner was found:

> laying on the bed bottom bunk, patient is not response [sic] to call, patient is breathing, no short of breath, no acute distress noted, skin warm and dry to touch, patient is able to respond to ammonia inhalant and both eye lids moving. Transferred to main clinic via gurney, still no verbally response, but response to stimuli, respiration even unlabored, no acute distress, [normal vital signs] after observation for 15 minutes, patient start having face expression, smile but still refused to talk and refused to move his body or extremities, pupil reactive to light both equally.

(Dkt. No. 45 at 60.) Petitioner's vital signs remained stable and Petitioner was eventually transferred by ambulance to LCMC. (*Id.* at 57, 59.)[12]

On May 9, 2009, Petitioner reported that he blacked out and fainted during breakfast. (Dkt. No. 45 at 56.) According to the progress notes, Petitioner was observed to be: "awake, oriented, response appropriate to questions asked[.] When we responded around 5:30 patient was found lying on the floor and able to transfer on his own from the floor to the W/C with a little assistance from us. Denies pain and just complained of hunger. Pupils equally reactive to light and accommodation no tongue

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[12] The medical records from LCMC were not made part of the record. Progress notes from May 1, 2009 state that the physician who examined Petitioner on that date reviewed the LCMC notes which referenced a negative head CT scan. (Dkt. No. 23 at 51.)

deviation equal hand grips and no weakness in all extremities. Patient able to ambulate from W/C to the holding tank." (*Id.*) All vital signs were normal. (*Id.*) Follow up notes reflect that Petitioner had normal vital signs and exams, and normal TSH. (*Id.* at 54-56.)

On May 24, 2009, other inmates reported that Petitioner was unresponsive during pill call. (*Id.* at 51-53.) Petitioner was assessed and found to be non-responsive to verbal or tactile stimuli. (*Id.* at 52.) Petitioner was transported to the clinic via gurney and assessed. (*Id.* at 51-52.) Petitioner's EKG was normal. (*Id.* at 52.) Petitioner's vital signs, temperature, and temperature were also normal. (*Id.* at 52-53.)

Finally, attached to the FAP are Petitioner's medical records from Sharp Chula Vista Medical Center concerning a fainting episode on December 22, 2019. (Dkt. No. 23-1 at 1-20.) The hospital records reflect that a number of conditions were ruled out. Petitioner's vital signs, exam, blood work, chest x-ray, EKG, and head CT without contrast were all unremarkable with the exception of the head CT which showed chronic sinusitis. (*Id.* at 1-9.) Petitioner was diagnosed with "acute syncope" and "acute vasovagal reaction."[13] (*Id.* at 4.) Petitioner was advised "to get up slowly when he is in a supine position going to a standing position" and "not to strain down if he is having a bowel movement or urinating." (*Id.*) Petitioner was released on the same day and provided with educational handouts on syncope (aka fainting) and low blood pressure. Petitioner was noted to have a history of low blood pressure, which is known to cause fainting. (*Id.* at 14-20.)

b. Blackouts as Evidence of Actual Innocence

As a preliminary matter, all of the medical records concern blackout episodes and issues that occurred after the jury reached a guilty verdict. As such, their relevance to

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[13] According to the Mayo Clinic, vasovagal syncope occurs when a person faints "because [their] body overreacts to certain triggers, such as the sight of blood or extreme emotional distress." (https://www.mayoclinic.org/diseases-conditions/vasovagal-syncope/symptoms-causes/syc-20350527.)

Petitioner's mental state at the time of the offense and during pre-trial and trial is tenuous at best. The fact that Petitioner had blackouts after trial in 2009, or over 10 years later on December 22, 2019, does not evidence that he was unconscious when he shot and killed the victim on September 23, 2007. Nor do they show that Petitioner was not able to comprehend the nature of the charges or proceedings against him, or that he could not rationally participate in his own defense.

Nothing in the record supports the conclusion that these conditions were present during the commission of the offense or before or during the trial. To the extent the blackouts are relevant, they show unresponsiveness and an absence of involuntary physical activity during a blackout. They do not support the conclusion that Petitioner could have performed as intricate of an activity as pulling a trigger multiple times mere inches from the victim's head multiple times during such an episode.

Moreover, as Respondent correctly notes, to the extent Petitioner would have argued unconsciousness as a defense to the murder charge, the sole evidence of unconsciousness would have had to come in the form of Petitioner's testimony. (*See* Dkt. No. 25 at 8.)

By contrast, the evidence that Petitioner acted consciously and deliberately was strong according to evidence attached to the FAP. The victim's minor son, who witnessed the murder, testified that, immediately preceding the shooting, Petitioner and the victim argued. The victim told Petitioner to "get out of the car." Petitioner did not appear to have passed out or seem to be asleep at any point before the shooting. Petitioner did not appear to be in shock after he shot the victim, and said nothing before he exited the moving vehicle and ran. (FAP at 44-48; LD 1 at 2-3.) The morning after the shooting, Petitioner told his son's mother that he killed the victim because she "was trying to set him up" and "he felt like his life was in danger." (*Id.* at 3.)

The manner in which Petitioner shot the victim strongly suggests that he acted consciously and deliberately. Petitioner shot the victim multiple times from a very close range; the shot in the center of the victim's forehead was fired from within an inch, and

two more wounds close to the victim's temple were caused by bullets fired from an inch to three feet away. (*Id.*) Accordingly, it cannot be said that, even assuming Petitioner would have testified that he was unconscious during the shooting, no reasonable juror would have voted to find him guilty beyond a reasonable doubt.

c. Petitioner's Mental Health Records

The submitted medical records related to Petitioner's mental health largely reference events that occurred after the verdict was rendered. Nothing Petitioner submitted supports a conclusion that a cognitive dysfunction precluded Petitioner from forming the requisite mens rea for murder, that it rendered him incapable of assisting in his defense, or that he was incapable of understanding the nature of the charges or proceedings against him.

First, Petitioner does not explain how the mental health records support his contention that he was unconscious when he shot the victim and no relationship is apparent from the record.

Second, with respect to Petitioner's mental health during the pre-trial and trial, the only relevant records in the FAP are progress notes from October 6, 2008 psychiatric examination. The notes reflect that Petitioner reported that Remeron medication was working and that "his anxiety level has decreased, feels more relaxed, better able to concentrate, decreased irritability/frustration, more patient." (Dkt. No. 23 at 55.) At the time, Petitioner denied having delusions, was alert and oriented with logical/linear thought process. (*Id.*) He was diagnosed with an adjustment disorder. (*Id.* at 54-55.) According to Petitioner's medication orders, the only medication prescribed during the pendency of his trial and before April 28, 2009 was oral Remeron. (*Id.* at 56.)

Petitioner included more records concerning his mental health in his motion for exculpatory evidence and the opposition to Respondent's motion to dismiss. (*See* Dkt. Nos. 41, 45.) However, all of those records concern events that occurred after the trial had concluded. According to the submitted progress notes, it appears that Petitioner experienced a mental health crisis between May 27, 2009 and May 31, 2009, which

resulted in him being transferred to the FIP[14] unit. (*See* Dkt. No. 45 at 43-51.)[15] On the morning of May 27, 2009, nurse practitioner Malone observed Petitioner "kneeling down in front of the toilet picking at his L toenail, naked, did not respond to my verbal commands or questions. Not talking to himself either." (Dkt. No. 45 at 51.) No obvious sign of injury was observed and a psychiatric evaluation was ordered. (*Id.*) While awaiting FIP admission, various nursing and medical staff observed Petitioner naked, appearing unkempt, in a dirty cell littered with food wrappings and human waste. (*Id.* at 43-49.) On May 28, 2009, a 5150 call was placed. (*Id.* at 48.) Progress notes also reflect that Petitioner remained alert, ambulatory, verbally responsive, and with even and unlabored respiration. (*Id.* at 43, 45-49.)

The submitted mental health records do not support the conclusion that, in light of the information contained therein, no reasonable juror would have found Petitioner guilty beyond a reasonable doubt. Evidence that Petitioner suffered mental health crises after the verdict in April and May 2009 does not demonstrate that he could not have formed the requisite mens rea for murder on September 23, 2007 or that he lacked competence to stand trial. Nothing in the submitted medical records indicates that Petitioner previously lacked competence to comprehend the criminal proceedings against him or to assist in his defense.[16] Notably, the mental health crisis which

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[14] FIP stands for Forensic In-Patient unit. According to Los Angeles County Sheriff's Department website, this is a 50-bed unit within the Correctional Treatment Center staffed with psychiatrists, psychologists, licensed psychiatric technicians, and nursing staff.

[15] It is unclear from the record if and when Petitioner was eventually transferred to FIP or how this mental health crisis was ultimately resolved. The progress notes documenting the mental health crisis that began on May 27, 2009 end on May 31, 2009. Notably, the mental health crisis happened within days of his sentencing. He was ultimately diagnosed with mood disorder, not otherwise specified, "DSM IV Diagnosis: 29690." (Dkt. No. 45 at 58.)

[16] The records indicate that, on March 2, 2009, the trial court ordered that Petitioner be transported to the Medical Center of Southern California on March 23, 2009 for neurological examination, EEG, MRI, and PET brain scan. (Dkt. No. 45 at 61.) On March 23, 2009, Petitioner was taken to the ordered appointments. (*Id.*) The results from the

resulted in the 5150 hold and Petitioner's placement in the FIP unit occurred after Petitioner was sentenced, and a full month after the jury returned a guilty verdict.

To the extent Petitioner suggests that the mere existence of a mental health issue and/or diagnosis, in and of itself, rendered him incapable of having the requisite mens rea for murder or being competent to stand trial, he has not offered any authority to support such a proposition.

Likewise, to the extent Petitioner argues that the fact he was housed in a mental health unit during pretrial, trial, and post-conviction periods evidences that he lacked mental capacity to stand trial, the argument is meritless. Petitioner's housing status during pretrial and trial is neither newly discovered evidence nor evidence that he lacked the capacity to form the requisite mens rea for murder, nor that he lacked capacity to stand trial. The evidence is not newly discovered because Petitioner was aware of his housing designation at time of trial. Moreover, neither the fact that Petitioner was housed in the mental health unit nor the existence of a mental health condition warranting such housing placement proves that Petitioner lacked the ability to form the requisite mens rea or that he lacked competence to stand trial.

In sum, the records Petitioner submitted do not meet the "stringent showing" required for finding of actual innocence. Neither the letter to counsel nor the medical records attached as exhibits to the FAP and the opposition constitute "new" evidence. More importantly, the documents do not indicate that Petitioner was actually innocent of the crimes of which he was convicted. Petitioner has thus failed to "persuade[] the . . . court that, in light of the [allegedly] new evidence, no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt." *McQuiggin*, 569 U.S. at 386.

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ordered examination and tests are not part of the record and were not referenced in any of the submitted medical records.

Accordingly, Petitioner cannot avail himself of the actual innocence exception to the statute of limitations and the FAP remains untimely.[17]

III.

MOTION TO AMEND

The court construes Petitioner's request for leave to file a revised FAP as a motion to amend the FAP. Petitioner states that he seeks to revise the FAP to include a table of contents. (Dkt. No. 29 at 1.) Respondent filed an opposition to Petitioner's request, contending that Petitioner's motion to amend the FAP should be denied as futile because, in all material aspects, the FAP and SAP are identical.

Leave to amend a habeas petition is governed by Fed. R. Civ. P. 15(a) and "'shall be freely given when justice so requires.'" *Morris v. United States Dist. Ct.*, 363 F.3d 891, 894 (9th Cir. 2004) (quoting Fed. R. Civ. P. 15(a)). Courts generally consider five factors: "'bad faith, undue delay, prejudice to the opposing party, futility of the amendment, and whether the party has previously amended his pleadings.'" *Waldrip v. Hall*, 548 F.3d 729, 732 (9th Cir. 2008) (quoting *Bonin v. Calderon*, 59 F.3d 815, 845 (9th Cir. 1995)). "Futility of amendment can, by itself, justify the denial of a motion for leave to amend." *Bonin*, 59 F.3d at 845-46 (denying leave to add meritless claims); *see also Caswell v. Calderon*, 363 F.3d 832, 837-38 (9th Cir. 2004) (denying leave to add unexhausted, meritless claim); *Wyatt v. McDonald*, 2011 WL 6100611, at *7 (E.D. Cal. Dec. 7, 2011) (denying motion to amend petition to add time-barred claims as futile).

The proposed SAP contains the same four claims asserted in the FAP. (*Id.* at 8-37.) The arguments in support of the claims are materially indistinguishable from those asserted in the FAP. The attached supporting documents are largely the same. (*Compare id.* at 39-109 *with* Dkt. Nos. 23 at 33-60 & 23-1 at 1-45.) As discussed above, all of Petitioner's proposed claims are untimely. For these reasons, amendment of the FAP would be futile and unnecessary.

---

[17] Because the FAP is subject to dismissal on timeliness grounds, the court does not address Respondent's argument that Ground Four is unexhausted.

IV.

RECOMMENDATION

For the reasons set forth above, it is recommended that the District Court (1) accept this Report's findings and recommendations; (2) grant Respondent's motion to dismiss the FAP as untimely; (3) deny Petitioner's request to amend the FAP; and (4) enter Judgment dismissing the action with prejudice.

DATED: September 19, 2022

Alicia G. Rosenberg

ALICIA G. ROSENBERG
United States Magistrate Judge

EXHIBIT COVER PAGE 4

EXHIBIT

Description if this ~~exhibit~~ APPENDIX: A) UNITED STATES COURT OF APPEALS OPINION, B) UNITED STATES DISTRICT COURT OPINION, C) HIGHEST STATE COURT OPINION, AND D) SUPERIOR COURT OPINION.

Number of Pages of this exhibit: 41 Pages.

JURISDICTION: (Check One Only)

- ☐ MUNICIPAL COURT
- ☐ SUPERIOR COURT
- ☐ APPELATE COURT
- ☐ STATE SUPREME COURT
- ☐ UNITED STATES DISCTRICT COURT
- ☐ STATE CIRCUIT COURT
- ☒ UNITED STATES SUPREME COURT
- ☐ GRAND JURY

UNITED STATES COURT OF APPEALS OPINION
(DOCKET ENTRY NO: 50, 54, 55, 56, AND 62)

APPENDIX "A"

UNITED STATES DISTRICT
COURT OPINION

APPENDIX
"B"

Case: 2:21cv3367 Doc: 50

Stephen Mark Picart CDCNo.G67811
R J Donovan Correctional Facility
480 Alta Road
San Diego, CA 92179

MIME-Version:1.0 From:cacd_ecfmail@cacd.uscourts.gov To:noreply@ao.uscourts.gov Message-Id:<34595401@cacd.uscourts.gov>Subject:Activity in Case 2:21-cv-03367-DSF-AGR Stephen Mark Picart v. M. Pollard Notice of Report and Recommendation Content-Type: text/html

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing
The following transaction was entered on 9/19/2022 at 12:21 PM PDT and filed on 9/19/2022

Case Name:	Stephen Mark Picart v. M. Pollard
Case Number:	2:21-cv-03367-DSF-AGR
Filer:	
Document Number:	50

Docket Text:
NOTICE OF FILING REPORT AND RECOMMENDATION by Magistrate Judge Alicia G. Rosenberg. Objections to R&R due by 10/12/2022. (See Attachment for Further Details) (kl)

2:21-cv-03367-DSF-AGR Notice has been electronically mailed to:
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

STEPHEN MARK PICART	CASE NUMBER:
PETITIONER(S)	2:21-cv-03367-DSF-AGR
v.	
MARCUS POLLARD	
RESPONDENT(S)	**NOTICE OF FILING OF MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

TO: All Parties of Record

You are hereby notified that the Magistrate Judge's Report and Recommendation has been filed on September 19, 2022.

Any party having Objections to the Report and Recommendation and/or order shall, not later than October 12, 2022, file and serve a written statement of Objections with points and authorities in support thereof before the Honorable Magistrate Judge Alicia G. Rosenberg. A party may respond to another party's Objections within 14 days after being served with a copy of the Objections.

Failure to object within the time limit specified shall be deemed a consent to any proposed findings of fact. Upon receipt of Objections and any Response thereto, or upon lapse of the time for filing Objections, the case will be submitted to the District Judge for disposition. Following entry of Judgment and/or order, all motions or other matters in the case will be considered and determined by the District Judge.

Parties are advised that, effective December 1, 2009, Rule 11 of the Rules Governing Section 2254 Cases was amended. Rule 11 now provides that in habeas corpus matters pursuant to 28 U.S.C. § 2254, the District Judge must issue or deny a Certificate of Appealability when a final order adverse to the applicant is entered. Parties may wish to take this Rule into consideration at the time they file any Objections to the report and recommendation.

The report and recommendation of a Magistrate Judge is not a final appealable order. A notice of appeal pursuant to Federal Rules of Appellate Procedure 4(a)(1) should not be filed until entry of a judgment and/or order by the District Judge.

CLERK, UNITED STATES DISTRICT COURT

Dated: September 19, 2022

By: */s/ Karl Lozada*
Deputy Clerk

Case: 2:21cv3367 Doc: 54

Stephen Mark Picart CDCNo.G67811
R J Donovan Correctional Facility
480 Alta Road
San Diego, CA 92179

MIME-Version:1.0 From:cacd_ecfmail@cacd.uscourts.gov To:noreply@ao.uscourts.gov Message-Id:<34995973@cacd.uscourts.gov>Subject:Activity in Case 2:21-cv-03367-DSF-AGR Stephen Mark Picart v. M. Pollard R&R - Accepting Report and Recommendations Content-Type: text/html

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

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Case Name:	Stephen Mark Picart v. M. Pollard
Case Number:	2:21-cv-03367-DSF-AGR
Filer:	
Document Number:	54

Docket Text:
ORDER ACCEPTING REPORT AND RECOMMENDATIONS by Judge Dale S. Fischer for REQUEST for Leave to Amend [29], MOTION to Dismiss [25], Report and Recommendation [49]. (1) Respondent's motion to dismiss the First Amended Petition for Writ of Habeas Corpus is granted as untimely; (2) Petitioner's request to amend the First Amended Petition for Writ of Habeas Corpus is denied; and (3) Judgment be entered dismissing the action with prejudice. (hr)

2:21-cv-03367-DSF-AGR Notice has been electronically mailed to:
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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

STEPHEN MARK PICART, Petitioner, v. MARCUS POLLARD, Warden, Respondent.	NO. CV 21-3367-DSF (AGR) ORDER ACCEPTING FINDINGS AND RECOMMENDATION OF MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636, the Court has reviewed the First Amended Petition for Writ of Habeas Corpus ("FAP"), the other records on file herein, the Report and Recommendation of the United States Magistrate Judge ("Report") and the Objections. Further, the Court has engaged in a *de novo* review of those portions of the Report and Recommendation to which objections have been made. The Court accepts the findings and recommendation of the Magistrate Judge.

IT THEREFORE IS ORDERED as follows:

(1) Respondent's motion to dismiss the First Amended Petition for Writ of Habeas Corpus is granted as untimely;

(2) Petitioner's request to amend the First Amended Petition for Writ of Habeas Corpus is denied; and

(3) Judgment be entered dismissing the action with prejudice.

DATED: December 5, 2022

Dale S. Fischer

DALE S. FISCHER
United States District Judge

Case: 2:21cv3367 Doc: 55

Stephen Mark Picart CDCNo.G67811
R J Donovan Correctional Facility
480 Alta Road
San Diego, CA 92179

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CENTRAL DISTRICT OF CALIFORNIA

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Case Number: 2:21-cv-03367-DSF-AGR

Filer:

WARNING: CASE CLOSED on 12/05/2022

Document Number: 55

Docket Text:
JUDGMENT by Judge Dale S. Fischer, Related to: R&R - Accepting Report and Recommendations [54]. IT IS ADJUDGED that the First Amended Petition For Writ of Habeas Corpus in this matter is denied and dismissed with prejudice. (MD JS-6, Case Terminated).(hr)

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JS-6

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

STEPHEN MARK PICART,

Petitioner,

v.

MARCUS POLLARD, Warden,

Respondent.

NO. CV 21-3367-DSF (AGR)

JUDGMENT

Pursuant to the Order Accepting Findings and Recommendation of United States Magistrate Judge,

IT IS ADJUDGED that the First Amended Petition For Writ of Habeas Corpus in this matter is denied and dismissed with prejudice.

DATED: December 5, 2022

Dale S. Fischer

DALE S. FISCHER
United States District Judge

Stephen Mark Picart CDCNo.G67811
R J Donovan Correctional Facility
480 Alta Road
San Diego, CA 92179

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

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Case Name: Stephen Mark Picart v. M. Pollard

Case Number: 2:21-cv-03367-DSF-AGR

Filer:

WARNING: CASE CLOSED on 12/05/2022

Document Number: 56

Docket Text:
ORDER DENYING CERTIFICATE OF APPEALABILITY by Judge Dale S. Fischer re First Amended Petition for Writ of Habeas Corpus[23]. (see document for details) (hr)

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

STEPHEN MARK PICART,

Petitioner,

v.

MARCUS POLLARD, Warden,

Respondent.

NO. CV 21-3367-DSF (AGR)

ORDER DENYING CERTIFICATE OF APPEALABILITY

The Court has reviewed the Report and Recommendation of United States magistrate judge and the other papers on record in these proceedings. For the reasons set forth in the magistrate judge's Report and Recommendation, filed September 19, 2022, and the Order Accepting Findings and Recommendation of United States Magistrate Judge filed concurrently herewith, the Court finds that Petitioner has not made a substantial showing of the denial of a constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *see also Miller-El v. Cockrell*, 537 U.S. 322 (2003); *Slack v. McDaniel*, 529 U.S. 473 (2000); *Lozada v. Deeds*, 498 U.S. 430 (1991); *Gardner v. Pogue*, 558 F.2d 548 (9th Cir. 1977).

IT IS ORDERED that the Certificate of Appealability is denied.

DATED: December 5, 2022

Dale S. Fischer

DALE S. FISCHER
United States District Judge

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 21-3367-DSF (AGR) Date February 16, 2023

Title Stephen Mark Picart v. Marcus Pollard, Warden

Present: The Honorable	Dale S. Fischer, United States District Judge	
Renee Fisher	n/a	n/a
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Petitioner:	Attorneys Present for Respondent:
None	None

Proceedings: **(In Chambers) PLAINTIFF'S MOTION FOR RECONSIDERATION OF ORDER ACCEPTING REPORT AND RECOMMENDATION (Dkt. No. 62)**

On January 9, 2023, Petitioner filed a motion to reconsider the Court's December 5, 2022 Order and Judgment dismissing Petitioner's First Amended Petition for Writ of Habeas Corpus by a Person in State Custody ("FAP") with prejudice. (Dkt. No. 54.) Petitioner also filed a notice of appeal. (Dkt. No. 59.)

On September 8, 2021, Petitioner, proceeding *pro se*, filed the FAP challenging his 2009 jury-trial conviction and life without the possibility of parole sentence for first degree murder of his girlfriend and second degree murder of her fetus. (Dkt. No. 23.) On September 30, 2021, Respondent moved to dismiss the FAP as untimely. (Dkt. Nos. 25, 26.) Petitioner filed an opposition. (Dkt. No. 45.) Respondent did not file a reply.

On September 19, 2022, the magistrate judge issued a Report and Recommendation recommending, *inter alia*, that the Court grant Respondent's motion to dismiss the FAP as untimely and deny Petitioner's request to amend the FAP. (Dkt. No. 49.) On October 11, 2022, Petitioner filed Objections to the Report and Recommendation and, on October 19, 2022, he filed a Memorandum of Points and Authorities in support of his Objections. (Dkt. Nos. 52, 53.) On December 5, 2022, after conducting de novo review, the Court issued an order accepting the Report's findings and recommendation, and entered judgment dismissing the FAP. (Dkt. Nos. 54, 55.)

In his motion for reconsideration, Petitioner again disagrees with the Report's findings that Petitioner was not entitled to equitable tolling and reasserts the argument that he was incompetent to stand trial. (Dkt. No. 62 at 2-14.)

Petitioner's motion does not provide any valid basis for reconsideration. Petitioner's

arguments were previously considered and rejected as reflected by the order granting Respondent's motion to dismiss and dismissing the FAP with prejudice. (Dkt. No. 54.)

HIGHEST STATE COURT
OPINION

APPENDIX
"C"

S264444

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re STEPHEN MARK PICART on Habeas Corpus.

The petition for writ of habeas corpus is denied.

CANTIL-SAKAUYE

Chief Justice

SUPERIOR COURT
OPINION

APPENDIX
"D"

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 05/14/20

CASE NO. TA093015

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: STEPHEN MARK PICART

INFORMATION FILED ON 01/24/08.

COUNT 01: 187(A) PC FEL
COUNT 02: 187(A) PC FEL

ON 03/03/20 AT 830 AM IN SOUTH CENTRAL DISTRICT DEPT SCD

CASE CALLED FOR HABEAS CORPUS PETITION

PARTIES: MICHAEL SHULTZ (JUDGE) CHANTE WARREN (CLERK)
ALICIA ANDERSON (REP) NONE (DDA)

DEFENDANT IS NOT PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL

ORDER SUMMARILY DENYING HABEAS CORPUS PETITION.

IN CHAMBERS:

PETITION FOR WRIT OF HABEAS CORPUS BY PETITIONER, STEPHEN MARK PICART, PRO SE ("PETITIONER"). NO APPEARANCE BY A RESPONDENT.

DENIED.

THE COURT HAS READ AND CONSIDERED A PETITION FOR WRIT OF HABEAS CORPUS FILED IN THE LOS ANGELES SUPERIOR COURT FILED BY THE PETITIONER, STEPHEN MARK PICART, ON OR ABOUT FEBRUARY 5,2020.

THE PETITION ASSERTS ONE GROUND, SPECIFICALLY THAT THE PETITIONER WAS DENIED DUE PROCESS OF LAW BECAUSE HE WAS TRIED AND CONVICTED WHILE MENTALLY INCOMPETENT.

THE COURT FINDS AS FOLLOWS:

THE MOST RECENT PETITION RAISES THE SAME ISSUE RAISED IN TWO PRIOR PETITIONS FOR WRIT OF HABEAS CORPUS THAT WERE PREVIOUSLY DENIED.

THE PETITION IS SUMMARILY DENIED FOR THE FOLLOWING REASONS:

THE PETITION PRESENTS CLAIMS RAISED AND REJECTED IN A PRIOR HABEAS PETITION AND PETITIONER HAS NOT ALLEGED FACTS ESTABLISHING AN EXCEPTION TO THE RULE BARRING RECONSIDERATION OF CLAIMS PREVIOUSLY REJECTED. SUCH SUCCESSIVE CLAIMS CONSTITUTE AN ABUSE OF THE WRIT OF HABEAS CORPUS. IN RE RENO (2012) 55 CAL.4TH 428, 455; IN RE CLARK (1993) 5 CAL.4TH 750, 767-769.)

WHEN A WRIT OF HABEAS CORPUS HAS BEEN DENIED, A NEW APPLICATION ON THE SAME GROUNDS WILL BE DENIED UNLESS THERE HAS BEEN A CHANGE IN THE LAW OR FACTS. HERE, PETITIONER DOES NOT AVER THAT

THERE HAS BEEN ANY CHANGES IN THE LAW OR THE FACTS. (IN RE SWAIN (1949) 34 CAL. 2D 300).

THE PETITION IS UNTIMELY, AND PETITIONER FAILS TO EXPLAIN AND JUSTIFY THE SIGNIFICANT DELAY IN SEEKING HABEAS CORPUS RELIEF. . (IN RE BURDAN (2008) 169 CAL.APP.4TH 18, 30-31; IN RE CLARK (1993) 5 CAL.4TH 750, 765; IN RE SWAIN (1949) 34 CAL.2D 300, 302.) "SUBSTANTIAL DELAY IS MEASURED FROM THE TIME THE PETITIONER OR HIS OR HER COUNSEL KNEW, OR REASONABLY SHOULD HAVE KNOWN, OF THE INFORMATION OFFERED IN SUPPORT OF THE CLAIM AND THE LEGAL BASIS FOR THE CLAIM." (IN RE ROBBINS (1998) 18 CAL.4TH 770, 780.)

FOR THE FOREGOING REASONS, THE PETITION FOR WRIT OF HABEAS CORPUS IS DENIED.

A COPY OF THIS MINUTE ORDER IS SENT VIA UNITED STATES POSTAL SERVICE AS FOLLOWS:

DISTRICT ATTORNEY'S OFFICE
HABEAS CORPUS LITIGATION TEAM

320 WEST TEMPLE STREET, ROOM 540
LOS ANGELES, CALIFORNIA 90012

STEPHEN MARK PICART #G67811
E-24-A-105-2L
R.J DONOVAN CORRECTIONAL FACILITY
480 ALTA ROAD
SAN DIEGO, CA 92179

COURT ORDERS AND FINDINGS:

PETITION FOR WRIT OF HABEAS CORPUS IS DENIED.

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED