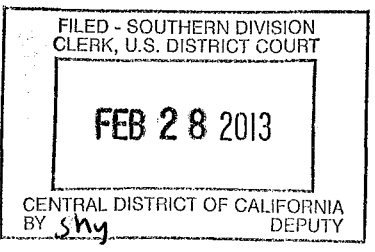


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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 WESTERN DIVISION

SANG MIN KIM, Petitioner, v. MATTHEW CATE, Secretary CDCR, et al., Respondents.	}	Case No. CV 12-00037 GAF (AN) ORDER ACCEPTING THE FINDINGS AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE
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Pursuant to 28 U.S.C. § 636, the Court has reviewed the file, including the Magistrate Judge’s Report and Recommendation (“R&R”) and Petitioner’s Objections [36]. Further, the Court has completed a *de novo* review of those portions of the R&R to which Petitioner has objected.

Based on its review, the Court finds the Objections reiterate arguments made in the First Amended Petition, and those arguments were correctly rejected in the R&R. Additionally, as to Petitioner’s insufficient evidence claims, he has used his Objections to continue his efforts to re-try his case by highlighting evidence ostensibly favorable to the defense and attempting to contradict inferences drawn by the jury. The Court, therefore, reiterates the finding in the R&R that a reviewing court “faced with a record of historical facts that supports conflicting inferences must presume - even if it does

1 not affirmatively appear in the record - that the trier of fact resolved any such conflicts
2 in favor of the prosecution, and must defer to that resolution.” *Jackson v. Virginia*, 443
3 U.S. 307, 326, 99 S. Ct. 2781 (1979).

4 IT IS ORDERED that:

5 1. The Objections are overruled and the Court accepts the findings and
6 recommendation of the R&R.

7 2. Judgment shall be entered denying the First Amended Petition and
8 dismissing this action with prejudice.

9 3. All pending motions are denied as moot and terminated.

10 IT IS FURTHER ORDERED that the clerk of the Court shall serve a copy of this
11 Order and the Judgment on all counsel or parties of record.

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14 Dated: February 27, 2013

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GARY A. FEESS
UNITED STATES DISTRICT JUDGE