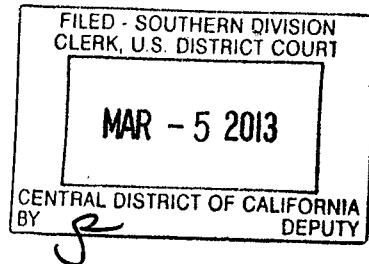


I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL POSTAGE PREPAID, TO ~~ALL COUNSEL~~ *Petitioner*
(OR PARTIES) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
RECORD IN THIS ACTION ON THIS DATE.

DATED: 3.5.13

DEPUTY CLERK



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LUIS ALBERTO CRESENCIANO,)	Case No. SACV 12-1579-DSF (JPR)
)	
Petitioner,)	
)	ORDER ACCEPTING FINDINGS AND
vs.)	RECOMMENDATIONS OF U.S.
)	MAGISTRATE JUDGE
RON BARNES, Warden,)	
)	
Respondent.)	
)	

Pursuant to 28 U.S.C. § 636, the Court has reviewed de novo the Petition, records on file, and Report and Recommendation of the U.S. Magistrate Judge. On January 25, 2013, Petitioner, through counsel, filed Objections to the Report and Recommendation. Petitioner simply incorporates by reference the arguments in the Petition and Reply and briefly summarizes them. (Objections at 2.) He also asserts that "[a]s argued by petitioner (but not acknowledged by the Magistrate Judge), a major factor in assessing the probable impact of an instruction on the jury is the arguments of counsel," citing a California case. (Objections at 3.) In fact, citing U.S. Supreme Court authority, the only clearly established law on federal habeas review, see 28 U.S.C. § 2254(d)(1), the Magistrate Judge noted

1 that to the contrary, "'prosecutorial misrepresentations . . .
2 are not to be judged as having the same force as an instruction
3 from the court.'" (R&R at 22 (citing Boyde v. California, 494
4 U.S. 370, 384-85, 110 S. Ct. 1190, 1200, 108 L. Ed. 2d 316
5 (1990)).)

6 For the reasons expressed in the Report and Recommendation,
7 the Court accepts the findings and recommendations of the
8 Magistrate Judge. IT THEREFORE IS ORDERED that the Petition is
9 denied without leave to amend and Judgment be entered dismissing
10 this action with prejudice.

11 3/4/13



12 DATED: _____

DALE S. FISCHER
U.S. DISTRICT JUDGE

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