

1 On February 22, 2011, the Magistrate Judge issued a Report and Recommendation
2 (“R&R”), recommending that Grounds One and Three through Six in the Petition be dismissed with
3 prejudice and that the matter be referred back to the Magistrate Judge for further proceedings with
4 respect to Ground Two in the Petition.¹ On April 1, 2011, petitioner filed Objections to the R&R
5 (“Objections”).

6 Petitioner’s Objections challenge various “factual findings” in the R&R. (See Objections at
7 1-8). Contrary to petitioner’s assertions, (see, e.g., *id.* at 3-8), the Magistrate Judge did not make
8 any factual findings. Rather, the Magistrate Judge evaluated petitioner’s claims and the record
9 in light of the “highly deferential standard for evaluating state-court rulings” imposed by AEDPA
10 in determining whether the state court’s decision was contrary to, or involved an unreasonable
11 application of, clearly established federal law. See *Renico v. Lett*, 130 S.Ct. 1855, 1862 (2010)
12 (internal quotation marks and citation omitted); *Price v. Vincent*, 538 U.S. 634, 640, 123 S.Ct.
13 1848, 1853 (2003) (Under the “contrary to” clause, “a decision by a state court is ‘contrary to’ [the
14 Supreme Court’s] clearly established law if it ‘applies a rule that contradicts the governing law set
15 forth in [the Supreme Court’s] cases’ or if it ‘confronts a set of facts that are materially
16 indistinguishable from a decision of th[e Supreme] Court and nevertheless arrives at a result
17 different from [Supreme Court] precedent.’”) (quoting *Williams v. Taylor*, 529 U.S. 362, 405-06,
18 120 S.Ct. 1495, 1519-20 (2000)); *Williams*, 529 U.S. at 413, 120 S.Ct. at 1523 (“Under the
19 ‘unreasonable application’ clause, a federal habeas court may grant the writ if the state court
20 identifies the correct governing legal principle from th[e Supreme] Court’s decisions but
21 unreasonably applies that principle to the facts of [petitioner]’s case.”); see also *Yarborough v.*
22 *Alvarado*, 541 U.S. 652, 665, 124 S.Ct. 2140, 2150 (2004) (“Relief is available under § 2254(d)(1)
23 only if the state court’s decision is objectively unreasonable.”).

24 Further, petitioner’s challenges to the “factual findings” in the R&R are no more than
25 petitioner’s interpretation of the state court record. (See Objections at 1-8). “AEDPA prevents
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28 ¹ Contemporaneously with the filing of the R&R, the Magistrate Judge issued an Order
staying the case as to Phase Two.

1 [petitioners] – and federal courts – from using federal habeas corpus review as a vehicle to
2 second-guess the reasonable decisions of state courts.” Renico, 130 S.Ct. at 1866. Although
3 petitioner’s “interpretation of the trial record is not implausible[,]” the state court’s interpretation of
4 the record is equally plausible, i.e., “other reasonable interpretations of the record are also
5 possible.” Id. at 1865. Irrespective of whether or not the state court’s decision was correct with
6 respect to the subject claims, it is clear that the decision was not objectively unreasonable. See
7 id. at 1866 (“Whether or not the [state court’s] opinion . . . was *correct*, it was clearly *not*
8 *unreasonable*.”) (italics in original). Under the circumstances, petitioner’s reliance on his
9 interpretation of the record is insufficient in light of the deference that must be afforded to the state
10 court’s decision under AEDPA. See id. at 1860 & 1865-66 (reversing Court of Appeal’s decision
11 to affirm district court’s grant of habeas relief and remanding for further proceedings because
12 “these courts misapplied AEDPA’s deferential standard of review[.]” and “other reasonable
13 interpretations of the record [we]re also possible[.]”); see also id. at 1862 (“AEDPA . . . imposes
14 a highly deferential standard for evaluating state-court rulings, and demands that state-court
15 decisions be given the benefit of the doubt.”) (internal quotation marks and internal citations
16 omitted).

17 Based on the foregoing and pursuant to 28 U.S.C. § 636, the Court has reviewed the
18 Petition, all of the records herein, the Magistrate Judge’s Report and Recommendation, and the
19 Objections to the Report and Recommendation. Having made a de novo determination of the
20 portions of the Report and Recommendation to which the Objections were directed, the Court
21 concurs with and adopts the findings and conclusions of the Magistrate Judge. Accordingly, IT
22 IS ORDERED THAT:

- 23 1. Grounds One and Three through Six in the Petition shall be dismissed with prejudice.
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