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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LEWIS HARDIN,

 Petitioner,

 v.

B.M. CASH,

 Respondent.

Case No. CV 11-0632 CJC (JCG)

**ORDER ACCEPTING REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE AND
DENYING CERTIFICATE OF
APPEALABILITY**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the Magistrate Judge’s Report and Recommendation, Petitioner’s Objections to the Report and Recommendation, and the remaining record, and has made a *de novo* determination.

Petitioner’s Objections generally reiterate the arguments made in the Petition and Traverse, and lack merit for the reasons set forth in the Report and Recommendation.¹

¹ In his Objections, Petitioner once again attempts to raise an ineffective assistance of counsel claim. The Court, however, previously denied Petitioner’s motion to amend his habeas petition to include such a claim, [*see* Dkt. No. 55], and, in any event, need not consider his new claim at this juncture. *See United States v. Howell*, 231 F.3d 615, 621-22 (9th Cir. 2000) (“[A] district court has discretion, but is not required, to consider evidence presented for the first time in a party’s objection to a magistrate judge’s recommendation”).

1 Accordingly, IT IS ORDERED THAT:

- 2 1. The Report and Recommendation is approved and accepted;
- 3 2. Judgment be entered denying the Petition and dismissing this action with
- 4 prejudice; and
- 5 3. The Clerk serve copies of this Order on the parties.

6 Additionally, for the reasons stated in the Report and Recommendation, the

7 Court finds that Petitioner has not made a substantial showing of the denial of a

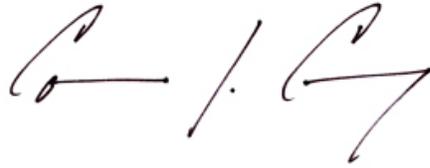
8 constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Miller-El v.*

9 *Cockrell*, 537 U.S. 322, 336 (2003). Thus, the Court declines to issue a certificate of

10 appealability.

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12 DATED: May 22, 2014



14 HON. CORMAC J. CARNEY
15 UNITED STATES DISTRICT JUDGE

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