

1 *Thompson*, 336 F.3d 848, 853 (9th Cir. 2003). Applying that standard,
2 the Magistrate Judge concluded that the claim was without merit.

3 Since *Himes*, however, the United States Supreme Court has made
4 clear that federal courts should apply a more deferential standard,
5 reviewing such claims to determine whether there was any reasonable
6 basis for the state court to deny relief. *Harrington v. Richter*, 562
7 U.S. 86, 98 (2011); see also *Hein v. Sullivan*, 601 F.3d 897, 905 (9th
8 Cir. 2010). Obviously, under this more deferential standard,
9 Petitioner is not entitled to relief.

10 Further, for the reasons stated in the Report and
11 Recommendation, the Court finds that Petitioner has not made a
12 substantial showing of the denial of a constitutional right and
13 therefore, a certificate of appealability is denied. See 28 U.S.C.
14 § 2253(c)(2); Fed. R. App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S.
15 322, 336 (2003).

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17 DATED: 08/24/2015.

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20 PHILIP S. GUTIERREZ
21 UNITED STATES DISTRICT JUDGE
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