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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CARLOS RAMIREZ,

Petitioner,

v.

DAVID B. LONG,

Respondent.

Case No. CV 14-2008-JVS (KK)

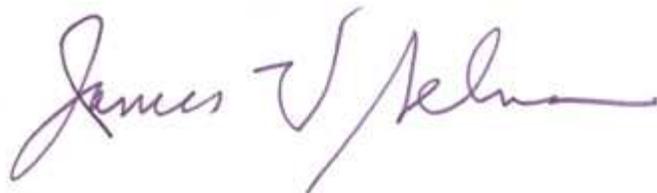
ORDER ACCEPTING FINDINGS
AND RECOMMENDATION OF
UNITED STATES MAGISTRATE
JUDGE

Pursuant to Title 28 of the United States Code, section 636, the Court has reviewed the Second Amended Petition for a Writ of Habeas Corpus, the records on file, and the Report and Recommendation of the United States Magistrate Judge. The Court has engaged in de novo review of those portions of the Report to which Petitioner has objected. The Court accepts the findings and recommendation of the Magistrate Judge.

To the extent Petitioner also requests an evidentiary hearing in his objections to the Report, in habeas proceedings, “an evidentiary hearing is not required on issues that can be resolved by reference to the state court record.” Totten v. Merkle, 137 F.3d 1172, 1176 (9th Cir. 1998); see also Earp v. Ornoski, 431 F.3d 1158, 1173 (9th Cir. 2005). “It is axiomatic that when issues can be resolved with reference to the state court record, an evidentiary hearing becomes nothing more

1 than a futile exercise.” Totten, 137 F.3d at 1176. Here, the Magistrate Judge
2 concluded all of Petitioner’s claims could be resolved by reference to the state
3 court record. Accordingly, the Court denies Petitioner’s request for an evidentiary
4 hearing.

5 IT IS THEREFORE ORDERED that Judgment be entered (1) denying the
6 Second Amended Petition for a Writ of Habeas Corpus; and (2) dismissing this
7 action with prejudice.



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9 Dated: October 11, 2016

10 HONORABLE JAMES V. SELNA
11 United States District Judge

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