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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RAUL BECERRA QUIROZ,
Petitioner
v.
CHRISTIAN PFEIFFER,
Respondent.

Case No. CV 14-7826-JAK (GJS)

**ORDER ACCEPTING FINDINGS
AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the operative 28 U.S.C. § 2254 petition in this case (Dkt. 27 and 27-1 through 27-4, “Petition”) and all relevant pleadings, motions, and other documents filed in this action, the Report and Recommendation of United States Magistrate Judge (Dkt. 75, “Report”), and Petitioner’s Objections to the Report and Recommendation (Dkt. 80). Pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), the Court has conducted a de novo review of the matters to which objections have been stated.

Petitioner’s assertions and arguments have been reviewed carefully. Petitioner’s Objections rest for the most part on his contention that the state habeas proceedings related to his federal habeas claims were deficient, which in itself precludes application of the otherwise governing 28 U.S.C. § 2254 standard of review. That contention, in turn, rests on the following series of premises: first, his

1 state court habeas petition proved that he was entitled to relief, assuming his factual
2 assertions were presumed to be true as is required by state law; second, the state
3 court, thus, erred in finding that a prima facie case for relief has not been shown
4 and, instead, should have issued an order to show cause and proceeded with factual
5 development, including by holding an evidentiary hearing; and third, the state court
6 therefore “deviat[ed]” from “mandatory” California habeas procedures and
7 committed state law procedural error, which equates to an unreasonable factual
8 determination within the meaning of 28 U.S.C. § 2254(d)(2). Petitioner further
9 posits that this asserted state law error rendered all factual findings by the state court
10 defective and not worthy of deference, and thus, the Magistrate Judge’s conclusion
11 that he had not surmounted 28 U.S.C. § 2254(d)(1)’s demanding standard as to any
12 of his claims necessarily was wrong, because it lacked a proper factual foundation.
13 Petitioner, in short, contends that the Petition should have received *de novo* review
14 and that the Report should be rejected given the Magistrate Judge’s application of
15 the Section 2254(d) standard of review to his claims.

16 Petitioner raised a version of this argument in his pre-Report briefing,
17 asserting that *de novo* review was required due to the state court’s failure to hold an
18 evidentiary hearing, and the Report addressed it (at pp. 9-10). Among other things,
19 the Magistrate Judge observed that Petitioner had failed to identify what further
20 factual development was need before the state court could have resolved his claims,
21 including what additional evidence he would have proffered or adduced at a hearing
22 to prove an entitlement to relief.

23 Petitioner’s arguments set forth in the Objections continue to improperly
24 conflate his belief that he *had* stated a prima facie case for relief (and the state court
25 therefore erred in concluding otherwise) with the threshold undertaking required by
26 Section 2254(d)(2), namely, to determine whether the state court made an
27 unreasonable determination of the facts in light of the evidence of record. A state
28 court’s fact-finding process is not unreasonably deficient under Section 2254(d)(2)

1 because of a failure to hold an evidentiary hearing unless a petitioner shows *why* the
2 failure to hold such a hearing mattered. Petitioner has not persuaded the Court that
3 the state court's failure to hold an evidentiary hearing was unreasonable in light of
4 the evidence of record before the state court.

5 Having considered the Report and Petitioner's Objections, the Court
6 concludes that the Report did not err in applying the Section 2254(d) standard of
7 review to Petitioner's claims.¹ The Court further concludes that nothing set forth in
8 the Objections or otherwise in the record for this case affects or alters, or calls into
9 question, the findings and analysis set forth in the Report. Having completed its
10 review, the Court accepts the findings and recommendations set forth in the Report
11 with one nominal exception noted below.²

12 Accordingly, **IT IS ORDERED** that: (1) the Petition is DENIED; and (2)
13 Judgment shall be entered dismissing this action with prejudice.

14
15 **LET JUDGMENT BE ENTERED ACCORDINGLY.**

16
17 DATED: August 26, 2021

18 
19 _____
20 JOHN A. KRONSTADT
21 UNITED STATES DISTRICT JUDGE

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23
24 ¹ For this reason, the Court finds unpersuasive Petitioner's Objection that he
25 was entitled to pursue discovery and have an evidentiary hearing in this case, as well
26 to have the Magistrate Judge's decision declining to hold an evidentiary hearing and
27 to allow discovery "revisited." See *Cullen v. Pinholster*, 563 U.S. 170, 185, 187 &
n.7 (2011); see also *Gulbrandson v. Ryan*, 738 F.3d 976, 993-94 & n.6 (9th Cir.
2013); *Stokley v. Ryan*, 659 F.3d 802, 809 (9th Cir. 2011).

28 ² There is a typographical error on Page 31, Line 23 of the Report that reads
"20078" and should, instead, read "2008."