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

EDWARD RASBERRY,
Petitioner,
v.
SCOTT KERNAN, Sec'y CDCR;
DEBBIE ASUNCION, Warden,
CSP-LAC,
Respondents.

No. CV 17-2808-RGK (PLA)
**ORDER ACCEPTING FINDINGS,
CONCLUSIONS AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

The Magistrate Judge issued a Report and Recommendation on August 9, 2017, recommending that the Petition be dismissed as untimely after finding that the Petition was filed after the statute of limitations expired, and that petitioner had not set forth a credible claim of actual innocence to overcome the time bar. (Docket No. 13).

On October 2, 2017, petitioner filed an Objection to the Report and Recommendation. In his Objection, petitioner alleges that various errors occurred with respect to his underlying criminal investigation, trial, and sentencing. (Docket No. 16). He does not present any new reliable evidence of actual innocence. Accordingly, after a careful review of his allegations set forth in his Objection, the Court determines that the allegations are insufficient to show actual innocence under Schlup v. Delo, 513 U.S. 298, 324, 329, 115 S.Ct. 851, 130 L.Ed.2d 808 (1995).

1 **CONCLUSION**

2 Based on the foregoing and pursuant to 28 U.S.C. § 636, the Court has reviewed the
3 relevant filings, the Magistrate Judge’s Report and Recommendation, and petitioner’s Objection
4 to the Report and Recommendation. The Court has engaged in a de novo review of those
5 portions of the Report and Recommendation to which objections have been made. The Court
6 concurs with and accepts the findings and conclusions of the Magistrate Judge.

7 ACCORDINGLY, IT IS ORDERED:

- 8 1. The Report and Recommendation is accepted.
9 2. The Motion to Dismiss is granted.
10 3. Judgment shall be entered consistent with this order.
11 4. The clerk shall serve this order and the judgment on all counsel or parties of record.

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14 DATED: October 6, 2017



HONORABLE R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE