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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ELMO SMITH, JR.,	)	Case No. CV 17-6405-JAK (JEM)
	)	
Petitioner,	)	
	)	ORDER ACCEPTING FINDINGS AND
v.	)	RECOMMENDATIONS OF UNITED
	)	STATES MAGISTRATE JUDGE
DEBBIE ASUNCION,	)	
	)	
Respondent.	)	
_____	)	

On November 14, 2017, Respondent filed a Motion to Dismiss the Petition as untimely. Despite having received an extension of time, Petitioner did not file an Opposition to the Motion by the January 4, 2018 deadline. On January 10, 2018, the Magistrate Judge issued a Report and Recommendation recommending that Respondent’s Motion to Dismiss be granted. On January 24, 2018, Petitioner filed a request for extension of time to file an Opposition to the Motion to Dismiss. On January 26, 2018, the Magistrate Judge granted Petitioner’s request. On February 12, 2018, Petitioner filed an Opposition to the Motion to Dismiss, in which he addresses the Motion to Dismiss and the Report and Recommendation in arguing that he is actually innocent and is entitled to an evidentiary hearing.

1 Pursuant to 28 U.S.C. Section 636, the Court has reviewed the pleadings, the  
2 records on file, and the Report and Recommendation of the Magistrate Judge. The Court  
3 has engaged in a de novo review of the Report and Recommendation in light of Petitioner's  
4 arguments. The Court accepts the findings and recommendations of the Magistrate Judge.

5 IT IS ORDERED that: (1) the Petition for Writ of Habeas Corpus is denied; and (2)  
6 Judgment shall be entered dismissing the action with prejudice.

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8 DATED: March 5, 2018

  
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JOHN A. KRONSTADT  
UNITED STATES DISTRICT JUDGE

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