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

PAUL ANDY TURNER,  
Petitioner,  
v.  
LELAND MCEWEN, Warden,  
Respondent.

) Case No. ED CV 11-2069 VAP (JCG)

**ORDER ACCEPTING REPORT AND  
RECOMMENDATION OF UNITED  
STATES MAGISTRATE JUDGE AND  
DENYING CERTIFICATE OF  
APPEALABILITY**

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, the Magistrate Judge’s Report and Recommendation, Petitioner’s Objections to the Report and Recommendation, and the remaining record, and has made a *de novo* determination.

Petitioner’s Objections generally reiterate the arguments made in the Petition and Reply, and lack merit for the reasons set forth in the Report and Recommendation.

Furthermore, to the extent that Petitioner’s Objections include a request for an evidentiary hearing, Petitioner’s request is denied. *See Cullen v. Pinholster*, 131 S.Ct. 1388, 1398 (2011); *Schriro v. Landrigan*, 550 U.S. 465, 474 (2007) (“[I]f the record refutes the applicant’s factual allegations or otherwise precludes habeas relief,

1 a district court is not required to hold an evidentiary hearing.”).

2 Accordingly, IT IS ORDERED THAT:

- 3 1. The Report and Recommendation is approved and accepted;
- 4 2. Judgment be entered denying the Petition and dismissing this action  
5 with prejudice; and
- 6 3. The Clerk serve copies of this Order on the parties.

7 Additionally, for the reasons stated in the Report and Recommendation, the  
8 Court finds that Petitioner has not made a substantial showing of the denial of a  
9 constitutional right. *See* 28 U.S.C. § 2253; Fed. R. App. P. 22(b); *Miller-El v.*  
10 *Cockrell*, 537 U.S. 322, 336 (2003). The Court thus declines to issue a certificate of  
11 appealability.

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13 DATED: \_July 17, 2013\_

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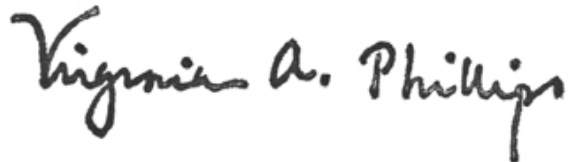
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HON. VIRGINIA A. PHILLIPS  
UNITED STATES DISTRICT JUDGE