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

JASON ALEXANDER MAHONEY,	)	Case No. SACV 13-1082-GW (JPR)
	)	
Petitioner,	)	
	)	ORDER ACCEPTING FINDINGS AND
vs.	)	RECOMMENDATIONS OF U.S.
	)	MAGISTRATE JUDGE
R. DIAZ, Warden,	)	
	)	
Respondent.	)	

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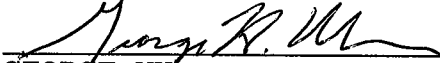
Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition, records on file, and Report and Recommendation of the U.S. Magistrate Judge. On April 2, 2014, Petitioner filed objections to the Report and Recommendation, mostly simply repeating the arguments in the Petition and Reply. One of his contentions does warrant a response, however.

He claims that the Magistrate Judge erred in stating, in connection with Petitioner's ineffective-assistance-of-counsel claim, that Petitioner never identified whom his lawyer could have used as a witness to support Petitioner's claim that he had left the PENI gang at the time of the underlying crimes. (Objections at 6.) Petitioner asserts that "James Hunt is mentioned in the trial transcripts and has provided a notarized affidavit in support based on his personal knowledge that

1 Petitioner 'was retired when I met him in 2007,'" and that  
2 Petitioner attached Hunt's declaration<sup>1</sup> to the Reply. (Id. at  
3 n.6.) But Petitioner never submitted Hunt's declaration to the  
4 state courts; indeed, Hunt didn't even sign the declaration until  
5 November 2013 (Reply, Hunt Decl.), four months after the state  
6 supreme court denied the last of Petitioner's state habeas  
7 petitions (see Lodged Doc. 16). Thus, the Magistrate Judge was  
8 correct not to consider Petitioner's argument concerning Hunt.  
9 See Cullen v. Pinholster, 563 U.S. \_\_\_, 131 S. Ct. 1388, 1398, 179  
10 L. Ed. 2d 557 (2011). In any event, given that Hunt was a "PENI  
11 'shot caller,'" as the California Court of Appeal noted (Lodged  
12 Doc. 8 at 5), Petitioner's counsel might reasonably have decided  
13 that his testimony would not have been credible. The Court  
14 accepts the findings and recommendations of the Magistrate Judge.

15 IT THEREFORE IS ORDERED that the Petition is denied,  
16 Petitioner's request for an evidentiary hearing is denied, and  
17 Judgment be entered dismissing this action with prejudice.

18  
19 DATED: July 1, 2014

  
GEORGE WU  
U.S. DISTRICT JUDGE

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28 <sup>1</sup>Because the document was not sworn to before a judge or  
other authorized official, it is actually a declaration, not an  
affidavit. See Black's Law Dictionary 62, 436 (8th ed. 2004).