

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DWIGHT TAMPLIN, JR.,

Petitioner,

v.

R. GROUNDS, Warden,

Respondent.

Case No. 1:12-cv-01633-AWI-SKO HC

**ORDER DENYING REQUEST
FOR EVIDENTIARY HEARING**

(Doc. 55)

In his first amended petition for writ of habeas corpus (Doc. 55), Petitioner, a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, moved for an evidentiary hearing.

In habeas proceedings, "an evidentiary hearing is not required on issues that can be resolved by reference to the state court record." *Totten v. Merkle*, 137 F.3d 1172, 1176 (9th Cir. 1998). "It is axiomatic that when issues can be resolved with reference to the state court record, an evidentiary hearing becomes nothing more than a futile exercise." *Id.* at 1176.

Here, all of Petitioner's claims can be resolved by reference to the state court record. Accordingly, the Court hereby DENIES the motion for an evidentiary hearing.

IT IS SO ORDERED.

Dated: March 16, 2016

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE