

1 after he received a fair trial. (Doc. No. 24 at 1-24.) Petitioner responded with a traverse on
2 December 30, 2019. (Doc. No. 26.)

3 In a detailed findings and recommendations issued on February 7, 2020, the assigned
4 magistrate judge found petitioner’s claims to lack merit and recommended that his habeas petition
5 be denied. (Doc. No. 28.) The findings and recommendations were served on all parties and
6 contained notice that any objections thereto were to be filed within thirty days from the date of
7 service. On March 16, 2020, petitioner filed his objections. (Doc. No. 31.)

8 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), the court has conducted a
9 *de novo* review of the case. As the pending findings and recommendations recount, after his
10 judgment of conviction was affirmed on appeal and his petition for review was denied, petitioner
11 filed state habeas petitions in the superior court, state appellate court, and state supreme court—
12 all of which were denied. (Doc. No. 28 at 2.) The magistrate judge considered and appropriately
13 rejected all of petitioner’s arguments based on alleged violation of the Confrontation Clause, lack
14 of prosecutorial due diligence, prosecutorial misconduct, ineffective assistance of counsel, and
15 the trial judge’s bias. (*Id.* at 5-18.) Having carefully reviewed the state courts’ decisions and the
16 pending findings and recommendations, the court finds the magistrate judge’s analysis and
17 conclusion to be supported by the record and the law.

18 Petitioner’s objections to the findings and recommendations are unavailing. In those
19 objections petitioner advances arguments inconsistent with the deferential standard a federal
20 habeas court must apply in evaluating state court rulings under 28 U.S.C. § 2254. *See Briceno v.*
21 *Scribner*, 555 F.3d 1069, 1076 (9th Cir. 2009) (“§ 2254(d) established a highly deferential
22 standard for evaluating state court rulings.”). In this regard on federal habeas review, “[f]actual
23 determinations by state courts are presumed correct absent clear and convincing evidence to the
24 contrary.” *Miller-El v. Cockrell*, 537 U.S. 322, 340 (2003). Yet petitioner has failed to present
25 such clear and convincing evidence refuting the factual findings on which the state trial and
26 appellate courts made their rulings. Moreover, the arguments raised by petitioner in his
27 objections, (*see* Doc. No. 31 at 1-5), fail to overcome the deference this federal habeas court must

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1 afford to state court rulings, even on federal law issues. *See Harrington v. Richter*, 562 U.S. 86,
2 103 (2011). The court will therefore adopt the pending findings and recommendations.

3 A state prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a
4 district court's denial of his petition, and an appeal is only allowed in certain circumstances.
5 *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003). Specifically, the federal rules governing
6 habeas cases brought by state prisoners require a district court issuing an order denying a habeas
7 petition to either grant or deny therein a certificate of appealability. *See Rules Governing § 2254*
8 *Case*, Rule 11(a). A judge shall grant a certificate of appealability “only if the applicant has made
9 a substantial showing of the denial of a constitutional right,” 28 U.S.C. § 2253(c)(2), and the
10 certificate must indicate which issues satisfy this standard. 28 U.S.C. § 2253(c)(3). “Where a
11 district court has rejected the constitutional claims on the merits, the showing required to satisfy §
12 2253(c) is straightforward: [t]he petitioner must demonstrate that reasonable jurists would find
13 the district court's assessment of the constitutional claims debatable or wrong.” *Slack v.*
14 *McDaniel*, 529 U.S. 473, 484 (2000). Here, petitioner has not made such a showing.
15 Accordingly, a certificate of appealability will not be issued.

16 For the reasons set forth above:

- 17 1. The findings and recommendations, filed February 7, 2020 (Doc. No. 28), is
18 adopted in full;
- 19 2. The petition for writ of habeas corpus is denied;
- 20 3. The clerk of court is directed to enter judgment and close this case; and,
- 21 4. The court declines to issue a certificate of appealability.

22 This order terminates the action in its entirety.

23 IT IS SO ORDERED.

24 Dated: April 26, 2020

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27 UNITED STATES DISTRICT JUDGE
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