

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS HOWARD LENART,
Petitioner,
v.
ROBERT L. AYERS, JR.,
Respondent.

No. 2:05-cv-01912-MCE-CKD
DEATH PENALTY
ORDER

Petitioner, a former death row inmate, is proceeding through counsel in this habeas corpus action filed pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 28, 2024, the magistrate judge filed findings and recommendations herein which were served on all parties and which contained notice to all parties that any objections to the findings and recommendations were to be filed within fourteen days. Neither party filed objections to the findings and recommendations.

The Court presumes that any findings of fact are correct. See Orand v. United States, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. See Britt v. Simi Valley Unified School Dist., 708 F.2d 452, 454 (9th Cir. 1983). The Court has reviewed the file and finds the findings and recommendations to be supported by the record and by the magistrate judge’s analysis.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations issued on February 28, 2024 (ECF No. 227) are ADOPTED.

2. Petitioner's motion to dismiss the amended habeas corpus application (ECF No. 225) is GRANTED.

3. The court declines to issue the certificate of appealability referenced in 28 U.S.C. § 2253 as this case is moot.

4. The Clerk of Court shall close this case.

IT IS SO ORDERED.

Dated: March 14, 2024


MORRISON C. ENGLAND, JR.
SENIOR UNITED STATES DISTRICT JUDGE