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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

LONNIE DAVID STRINGER,  
Petitioner,  
v.  
JOHN MARSHALL,  
Respondent.

No. 2:09-cv-2980-KJM-EFB P

ORDER

Petitioner, a state prisoner proceeding through counsel, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 19, 2021, the magistrate judge filed findings and recommendations, 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. Petitioner has filed objections to the findings and recommendations, to which respondent has responded. ECF Nos. 100, 101. The court has carefully reviewed, the thorough findings and recommendations, petitioner’s objections and respondent’s response to the objections.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, the court’s review is *de novo*. Having completed its review, the court finds the findings and recommendations to be supported by the record and by the proper analysis. Specifically, the

1 court finds petitioner has not presented “truly extraordinary” facts demonstrating his factual  
2 innocence such that he may pass through the *Schlup* gateway, *Schlup v. Delo*, 513 U.S. 298, 327  
3 (1995), for the reasons explained in the findings and recommendations.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. The findings and recommendations filed January 19, 2021, are adopted in full;
- 6 2. Petitioner’s requests for testing of evidence and an evidentiary hearing are denied;
- 7 3. Respondent’s August 20, 2010 motion to dismiss (ECF No. 19) is granted;
- 8 4. The Clerk is directed to close the case; and
- 9 5. The court declines to issue a certificate of appealability.

10 DATED: April 1, 2021.

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13 CHIEF UNITED STATES DISTRICT JUDGE  
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