UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JUAN M. TIDWELL, SR., Petitioner, v. WILLIAM KNIPP, et al., Respondents.	No. 2:11-cv-0489 KJM CKD P ORDER

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This action proceeds on the amended petition filed June 22, 2012. (ECF No. 11 ("Ptn.").) Petitioner challenges his 2006 conviction for kidnapping to commit rape and/or robbery, penetration with a foreign object, sexual battery by restraint, and two counts of forcible rape, for which he was sentenced to a state prison term of 151 years to life. (Id. at 1.)

Before the court is petitioner's motion for discovery pursuant to Rule 6(a) of the Federal Rules Governing Section 2254 Cases, U.S.C. foll. § 2254. (ECF No. 37 ("Mtn.").) Respondent has filed an opposition (ECF No. 41), and petitioner has filed a reply (ECF No. 42). For the reasons set forth below, the court will deny petitioner's motion.

I. Petitioner's Motion

The petition asserts five grounds for federal habeas relief. (Ptn. at 4-6.) Petitioner raised Grounds One and Two on direct review and Grounds Three through Five on state collateral review. (See ECF No. 31 at 12.) All five grounds were considered and denied on the merits in

state court.[1] (See Lod. Docs. 2, 6, 12.)

In his pending motion, petitioner seeks thirteen separate items of "material and exculpatory" evidence pursuant to Brady v. Maryland, 373 U.S. 83 (1963). He asserts that this "existing . . . favorable [evidence] . . . has not been provided," violating his federal right to due process. (ECF No. 37.) The evidence petitioner seeks consists of (1) trial testimony concerning petitioner's 1998 conviction for sexual assault; (2) "any reports" documenting contamination of the victim's undergarments; (3) a copy of certain shorthand notes made by the court reporter; (4) "any evidence" that the victim testified in exchange for "monetary or legal benefits"; (5) evidence of "specific instances of misconduct bearing on the credibility" of the Sacramento Police Department; (6)-(12) "any statements" or "any reports" bearing on certain factual issues in the case; and (13) "any other relevant and material exculpatory evidence." (Id. at 3-4.) Petitioner asserts that he has diligently sought the requested evidence and the government has so far failed to provide it, warranting a discovery order. (Id. at 5.)

Respondent asserts that, under Cullen v. Pinholster, 131 S. Ct. 1388 (2011) and subsequent cases interpreting it, 28 U.S.C. § 2254(d) bars the introduction of new evidence on federal habeas review; thus, petitioner's motion should be denied. (ECF No. 41.)

II. Analysis

The Antiterrorism and Effective Death Penalty Act ("AEDPA"), which applies to the instant petition, mandates that a federal court may not grant a writ of habeas corpus based on any claim that was adjudicated on the merits by a state court unless the state court decision "(1) resulted in a decision that was contrary to, or involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or (2) resulted in a decision that was based on an unreasonable determination of the facts in light of the evidence presented in the State court proceeding." 28 U.S.C. § 2254(d).

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[1] Claim 3 was denied on procedural grounds and, alternatively, on the merits. (Lod. Doc. 12.) See Stephens v. Branker, 570 F.3d 198, 208 (4th Cir. 2009) ("[W]e agree with our sister circuits that an alternative merits determination to a procedural bar ruling is entitled to AEDPA deference.").

A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of ordinary course. See Bracy v. Gramley, 520 U.S. 899, 904 (1997). However, Rule 6(a) of the Federal Rules Governing Section 2254 Cases, 28 U.S.C. foll. § 2254, provides that a "judge may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and limit the extent of discovery." Habeas petitioners may conduct discovery only when specific allegations show reason to "believe that the petitioner may, if the facts are fully developed, be able to demonstrate that he is . . . entitled to relief." Bracy, 520 U.S. at 908–09; Smith v. Mahoney, 611 F.3d 978, 996 (9th Cir. 2010).

In Pinholster, 131 S. Ct. at 1398, the Supreme Court held that federal habeas review under § 2254(d)(1) and § 2254(d)(2) is limited to the record that was before the state court that adjudicated the claim on the merits. See Coddington v. Martel, 2013 WL 5486801 at *4 (E.D. Cal. Sept. 30, 2013) (citing cases). Once a state court has decided the claim on the merits, "evidence later introduced in federal court is irrelevant." Id. at 1400; see also Ryan v. Gonzales, 133 S. Ct. 696, 708 (2013) (as review of claims subject to § 2254(d) is "limited to the record that was before the state court that adjudicated the claim on the merits[,] . . . any evidence that a petitioner might have would be inadmissible."), citing Pinholster, 131 S. Ct. at 1398; Runningeagle v. Ryan, 686 F. 3d 758, 773 (9th Cir. 2012) (capital habeas petitioner was "not entitled to a an evidentiary hearing or additional discovery in federal court" because AEDPA review was limited to the record before the state court that adjudicated petitioner's claims on the merits); Wood v. Ryan, 693 F.3d 1104, 1122 (9th Cir. 2012) (petitioner "not entitled to an evidentiary hearing or additional discovery in federal court" because his claim was adjudicated on the merits under § 2254(d)).

Because any additional discovery materials would not be reviewable, as set forth above, petitioner cannot show good cause for his request under Rule 6(a). See Smith v. Chappell, 2014 WL 465290 at *3 (N.D. Cal. Feb. 3, 2014). Nor has petitioner demonstrated that the strength of the requested new evidence warrants a stay of federal proceedings to allow petitioner to return to state court, insofar as this procedure may be available in some cases. See Gonzalez v. Wong, 667 F.3d 965, 979-980 (9th Cir. 2011).

Accordingly, IT IS HEREBY ORDERED THAT petitioner's motion to compel discovery (ECF No. 37) is denied.

Dated: August 1, 2014

CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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