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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER VILLAREAL,
Petitioner,
v.
PATRICK EATON,
Respondent.

No. 2:20-cv-0380-KJM-EFB P

ORDER

Petitioner, a state prisoner proceeding pro se, 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 April 24, 2020, the magistrate judge filed findings and recommendations, which were served on petitioner and which contained notice to petitioner that any objections to the findings and recommendations were to be filed within fourteen days. Petitioner has filed objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having reviewed the file, the court finds the findings and recommendations to be supported by the record and by the proper analysis.

This court reviews de novo those portions of the proposed findings of fact to which objection has been made. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore*

1 *Business Machines*, 656 F.2d 1309, 1313 (9th Cir. 1981). As to any portion of the proposed
2 findings of fact to which no objection has been made, the court assumes its correctness and
3 decides the motions on the applicable law. *See Orand v. United States*, 602 F.2d 207, 208 (9th
4 Cir. 1979). The magistrate judge’s conclusions of law are reviewed de novo. *See Britt v. Simi*
5 *Valley Unified Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

6 The court has reviewed the applicable legal standards and, good cause appearing,
7 concludes that it is appropriate to adopt the Findings and Recommendations in full. In the April
8 24 findings and recommendations, the magistrate judge explains petitioner does not allege the
9 relevant sample was tampered with or otherwise mishandled. F&Rs at 3, ECF No. 6 (citing *Koch*
10 *v. Lewis*, 62 F.3d 1424 (9th Cir. 1995), which petitioner argued failure to follow prison rules
11 regarding collection and handling of urine samples created possibility his samples were
12 contaminated or otherwise rendered unreliable). Here, petitioner’s objections do not challenge
13 the handling of the seizure of the heroin he was charged with possessing, nor does he argue that
14 the crime lab analysis could have been contaminated or otherwise rendered unreliable. Rather, in
15 his objections, petitioner argues merely that “Respondent’s unconstitutional withholding of the
16 photographs [of the heroin]” deprived him of the opportunity to “establish how the so-called
17 evidence in the safe (photographed) was different from what the laboratory [*sic*] tested
18 (photographed).” *Objs.* at 2, ECF No. 7.

19 Accordingly, IT IS HEREBY ORDERED that:

- 20 1. The findings and recommendations filed April 24, 2020, are ADOPTED;
- 21 2. The petition (ECF No. 1) is DISMISSED for failure to state a cognizable claim;
- 22 3. The Clerk is directed to close the case; and
- 23 4. The court declines to issue a certificate of appealability.

24 DATED: February 24, 2021.

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27 CHIEF UNITED STATES DISTRICT JUDGE
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