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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LARRY JOHN LITTLE, Jr.,

vs.

D.K. SISTO, Warden,

Petitioner,

Respondent.

CASE NO. 08cv1043 JM(PCL)

ORDER ADOPTING REPORT AND
RECOMMENDATION RE: DENIAL
OF PETITION FOR WRIT OF
HABEAS CORPUS; DENYING
CERTIFICATE OF
APPEALABILITY

On August 25, 2011 Magistrate Judge Peter C. Lewis entered a Report and Recommendation recommending the denial of the petition for writ of habeas corpus on the merits. (“R & R”). The R & R, expressly incorporated herein, thoroughly and thoughtfully analyzed Petitioner’s claims and recommended that the petition be denied. Petitioner has filed objections to the R & R (“Objections”). Respondent did not file a reply to the Objections. Pursuant to Local Rule 7.1(d)(1), this matter is appropriate for decision without oral argument.

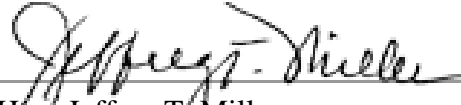
In his Objections, Petitioner sets forth essentially the same arguments raised in the Petition and addressed in the R & R. In large part, Petitioner argues that there is sufficient evidence in the record to support his argument that the presentation of PTSD and mental defense evidence “may have affected Petitioner’s mental state, perception, and actions when he killed the victim.” (Objections at p.9). The difficulty with this argument, as set forth in the R & R, is that Petitioner fails to show that the “the state court unreasonably applied federal law in concluding it was not reasonably likely that evidence of Little’s PTSD would have brought about a different result. Bell, 535 U.S. at 694.” (R &

1 R at p.12:6-8). Instead of responding to the same arguments a second time, the court adopts the R &
2 R in its entirety.

3 Lastly, upon review of the record, the court also concludes that Petitioner fails to make a
4 substantial showing of the denial of a constitutional right. Accordingly, any request for a certificate
5 of appealability is denied. See 28 U.S.C. §2253(c)(2).

6 **IT IS SO ORDERED.**

7 DATED: December 5, 2011

8 
9 Hon. Jeffrey T. Miller
United States District Judge

10 cc: All parties

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