

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 CEDRIC E. WALKER,

12 Petitioner,

13 v.

14 ERIC ARNOLD,

15 Respondent.

Case No.: 16cv2430-LAB (BLM)

**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

16
17 Petitioner Cedric Walker was given multiple extensions of time to prepare his
18 objections to Magistrate Judge Barbara Major’s report and recommendation (the “R&R”).
19 Most recently, he was reminded that his objections would have to explain why his claims
20 were not time-barred, given that he had no habeas petition pending in state court between
21 2000 and 2015. (*See* Docket no. 39.) He was also given other specific guidance about what
22 he must include in his objections.

23 Walker without leave submitted an amended petition, which the Court rejected for
24 filing. The amended petition merely reiterated Walker’s claims. It did not attempt to show
25 he was entitled to tolling for the period between 2002 and 2015, and did not address the
26 R&R’s recommended dispositions of his other requests, other than potentially his pending
27 motion for leave to file an amended petition. The only mention of timeliness was on pages
28 1 and 2, where Walker addressed California courts’ power to consider late petitions raising

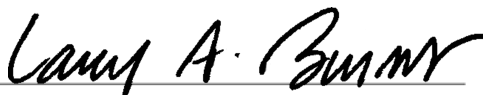
1 the issue of illegal sentencing. Even if the proposed amended complaint had been construed
2 as Walker's objections to the R&R, it would have failed.

3 Because Walker had not objected to the R&R, the Court reviewed, modified and
4 adopted it, and denied Walker's petition for writ of habeas corpus. Walker's claims arising
5 from his criminal conviction are clearly time-barred by many years. His more recent
6 claims, which are likely untimely as well, arise under state law and are not cognizable on
7 federal habeas review.

8 A certificate of appealability is **DENIED**. See *Miller-El v. Cockrell*, 537 U.S. 322
9 (2003).

10
11 IT IS SO ORDERED.

12 Dated: March 28, 2018

13 
14 Hon. Larry Alan Burns
United States District Judge