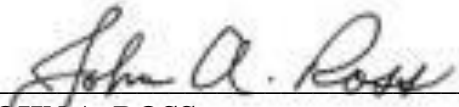


hearing unless “the applicant has failed to develop the factual basis of a claim in State court proceedings . . . [and] the claim relies on a factual predicate that could not have been previously discovered through the exercise of due diligence; and [] the facts underlying the claim would be sufficient to establish by clear and convincing evidence that but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.” An evidentiary hearing is not necessary when the merits of petitioner's claims may be resolved based on the state court record. *McCann v. Armontrout*, 973 F.2d 655, 658-59 (8th Cir. 1992). At this stage of the litigation, it appears that the state court record contains sufficient facts to make an informed decision on the merits of petitioner’s claims.

Accordingly,

IT IS HEREBY ORDERED that Petitioner’s Motion for Evidentiary Hearing (Doc. 11) is **DENIED without prejudice.**

Dated this 27th day of March, 2015.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE