

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

TRIVONNE JAY BARNETT,

Case No. 6:14-cv-01471-YY
ORDER

Petitioner,

v.

JEFF PREMO,

Respondent.

Aiken, Judge:

Magistrate Judge You issued Findings and Recommendation in the above-captioned cases, recommending that petition for habeas corpus relief be denied and the case dismissed. The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge's Findings and Recommendation, the district court must make a de novo determination of that portion of the magistrate judge's report. 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Petitioner filed objections to the Findings and Recommendation. Upon de novo review, I find no error and agree that petitioner failed to establish that the state

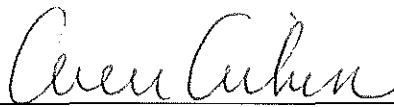
court decision regarding prosecutorial misconduct was contrary to or an unreasonable application of clearly established federal law.

Accordingly, IT IS HEREBY ORDERED that Magistrate Judge You's Findings and Recommendation (doc. 55) is ADOPTED with respect to the denial of the petition. The Petition and (doc. 2) is DENIED and this case is DISMISSED.

I decline to adopt the Findings and Recommendation with respect to the certificate of appealability. A certificate of appealability is granted as to the issue of prosecutorial misconduct. 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

Dated this 1st day of ~~January~~ *February*, 2017.



Ann Aiken
United States District Judge