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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 JOSEPH LOCHUCH EWALAN,

11 Petitioner,

12 v.

13 DON HOLBROOK,

14 Respondent.

CASE NO. C20-1497JLR-SKV

ORDER ADOPTING REPORT  
AND RECOMMENDATION

15 **I. INTRODUCTION**

16 Before the court is United States Magistrate Judge S. Kate Vaughan's report and  
17 recommendation. (R&R (Dkt. # 85).) Magistrate Judge Vaughan recommends that this  
18 court (1) deny Petitioner Joseph Lochuch Ewalan's amended habeas corpus petition  
19 (Am. Pet. (Dkt. # 13)); (2) deny multiple motions filed by Mr. Ewalan (*see* Mot. for  
20 Transcript (Dkt. # 39); Mot. to Expand Record (Dkt. # 58); 2d Mot. to Expand Record  
21 (Dkt. # 59); Mot. to File Lawsuit (Dkt. # 79)); (3) deny Mr. Ewalan's request for an  
22 evidentiary hearing; (4) dismiss this action with prejudice; and (5) deny a certificate of

1 appealability. (*See generally* R&R.) Mr. Ewalan, who is proceeding *in forma pauperis*  
2 (“IFP”) and *pro se* in this matter, filed timely objections to the report and  
3 recommendation, along with an affidavit and multiple exhibits.<sup>1</sup> (Obj. (Dkt. # 86); Aff.  
4 (Dkt. # 87); Exs. (Dkt. # 88).) Having carefully reviewed all of the foregoing, along with  
5 all other relevant documents, and the governing law, the court ADOPTS Magistrate  
6 Judge Vaughan’s report and recommendation; DENIES Mr. Ewalan’s objections; and  
7 DISMISSES Mr. Ewalan’s amended habeas corpus petition with prejudice.

## 8 II. ANALYSIS

9 A district court has jurisdiction to review a Magistrate Judge’s report and  
10 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). “The district judge must  
11 determine *de novo* any part of the magistrate judge’s disposition that has been properly  
12 objected to.” *Id.*; *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en*  
13 *banc*). Upon review, “[a] judge of the court may accept, reject, or modify, in whole or in  
14 part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.  
15 § 636(b)(1). Because Mr. Ewalan is proceeding *pro se*, the court must interpret his  
16 petition and objections liberally. *See Bernhardt v. Los Angeles Cnty.*, 339 F.3d 920, 925  
17 (9th Cir. 2003).

18 In her report and recommendation, Magistrate Judge Vaughan carefully reviewed  
19 the fourteen grounds for relief asserted by Mr. Ewalan in his amended habeas corpus  
20 petition. (*See* R&R at 4-6 (listing the fourteen grounds for relief); Am. Pet.) She

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22 <sup>1</sup> Respondent Don Holbrook has neither filed objections nor responded to Mr. Ewalan’s  
objections. (*See generally* Dkt.)

1 recommends that the court find that grounds 2, 9, 13, and 14 are barred for failure to  
2 exhaust and are procedurally defaulted (*id.* at 6-17) and that the remaining grounds fail  
3 on the merits (*id.* at 17-59). She further recommends that the court deny Mr. Ewalan’s  
4 multiple motions to expand the record, for an evidentiary hearing and “to file a lawsuit.”  
5 (*Id.* at 59-67.) Finally, she recommends that the court deny a certificate of appealability  
6 for failure to make “a substantial showing of the denial of a constitutional right.” (*Id.* at  
7 67 (quoting 28 U.S.C. § 2253(c)(3)).) The court has thoroughly examined the report and  
8 recommendation, Mr. Ewalan’s objections thereto, and the balance of the record before it.  
9 On de novo review, the court finds Magistrate Judge Vaughan’s reasoning persuasive in  
10 light of that record. Therefore, the court independently denies Mr. Ewalan’s objections  
11 and motions for the same reasons set forth in Magistrate Judge Vaughan’s report and  
12 recommendation.

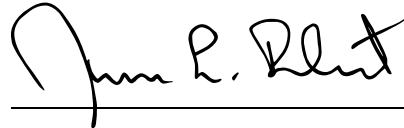
### 13 III. CONCLUSION

14 For the foregoing reasons, the court:

- 15 (1) ADOPTS the Report and Recommendation (Dkt. # 85) in its entirety;
- 16 (2) DENIES Mr. Ewalan’s amended petition for habeas corpus (Dkt. # 13) and  
17 DISMISSES this action with prejudice;
- 18 (3) DENIES Mr. Ewalan’s motions (a) to order Respondents to produce the  
19 court of appeal transcript (Dkt. # 39); (b) for leave to expand the record under Rule 7  
20 (Dkt. # 58); (c) to expand the record by two additional items (Dkt. # 59); and (d) to file a  
21 lawsuit (Dkt. # 79); and  
22 (4) DENIES a certificate of appealability.

1 The court DIRECTS the Clerk to send copies of this order to Mr. Ewalan, to  
2 counsel for Mr. Holbrook, and to Magistrate Judge Vaughan.

3 Dated this 10th day of May, 2022.

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6 JAMES L. ROBART  
7 United States District Judge  
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