

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Denzell Magic Metcalf v. John Doe

Metcalf · No. 1:25-cv-0607 JLT SKO (HC) · Decided June 27, 2025

OPINION

(HC) Metcalf v. John Doe

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 DENZELL MAGIC METCALF, Case No. 1:25-cv-0607 JLT SKO (HC) 12 Petitioner,

ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS, DISMISSING

13 v. PETITION FOR WRIT OF HABEAS

CORPUS AND DIRECTING CLERK OF

14 JOHN DOE, Warden, COURT TO ENTER JUDGMENT AND

CLOSE CASE

15 Respondent. (Doc. 10) 16

ORDER DECLINING TO ISSUE

17 CERTIFICATE OF APPEALABILITY

18 Denzell Magic Metcalf is a state prisoner proceeding pro se and in forma pauperis with a 19
petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The magistrate judge preformed
20 a preliminary review of the petition pursuant to Rule 4 of the Rules Governing Section 2254 21
Cases and observed Petitioner “has only sought administrative relief” and “has not presented his
22 claims to the California courts, including the California Supreme Court, as required by the 23
exhaustion doctrine.” (Doc. 10 at 2-3.) Therefore, the magistrate judge recommended the Court 24
dismiss the petition without prejudice for lack of exhaustion. (Id. at 3.) 25 The Court served the
Findings and Recommendations on Petitioner and notified him that 26 any objections were due
within 21 days. (Doc. 10 at 3.) The Court advised him that the “failure 27 to file objections within
the specified time may result in the waiver of rights on appeal.” (Id., 28 citing Wilkerson v.
Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014).) Petitioner did not file 1 | objections, and the time
to do so has passed. 2 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review
of this case. 3 | Having carefully reviewed the matter, the Court concludes the Findings and
Recommendations 4 | are supported by the record and proper analysis. 5 In addition, the Court
declines to issue a certificate of appealability. A state prisoner 6 | seeking a writ of habeas corpus

has no absolute entitlement to appeal a district court's denial of 7 | his petition, and an appeal is only allowed in certain circumstances. *Miller-El v. Cockrell*, 537 U.S. 322, 335-336 (2003). If a court denies a petitioner's petition, the court may only issue a 9 | certificate of appealability when a petitioner makes a substantial showing of the denial of a 10 | constitutional right. 28 U.S.C. § 2253(c)(2). To make a substantial showing, the petitioner must 11 || establish that "reasonable jurists could debate whether (or, for that matter, agree that) the petition 12 | should have been resolved in a different manner or that the issues presented were 'adequate to 13 || deserve encouragement to proceed further.'" *Slack v. McDaniel*, 529 U.S. 473, 484 (2000) 14 | (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 (1983)). In the present case, Petitioner did not 15 | make the required substantial showing of the denial of a constitutional right to justify the issuance 16 | of a certificate of appealability. Reasonable jurists would not find the Court's determination that 17 | Petitioner is not entitled to federal habeas corpus relief debatable, wrong, or deserving of 18 || encouragement to proceed further. Thus, the Court ORDERS: 19 1. The Findings and Recommendations issued on May 27, 2025 (Doc. 10) are 20 ADOPTED in full. 21 2. The petition for writ of habeas corpus is DISMISSED without prejudice. 22 3. The Clerk of Court is directed to enter judgment and close the case. 23 4. The Court declines to issue a certificate of appealability. 24 95 IT IS SO ORDERED. | Dated: _ June 27, 2025 Charis [Tourn

TED STATES DISTRICT JUDGE

27 28