

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hernandez v. Schultz

No. 1:24-cv-00736-KES-SKO (E.D. Cal. May 14, 2025) · No. 1:24-cv-00736-KES-SKO (HC) · Decided May
15, 2025

OPINION

(HC) Hernandez v. Schultz

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

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11 VICTOR ALFONSO HERNANDEZ, No. 1:24-cv-00736-KES-SKO (HC)

12 Petitioner, ORDER ADOPTING FINDINGS AND

RECOMMENDATIONS, DENYING

13 PETITION FOR WRIT OF HABEAS

CORPUS, DECLINING TO ISSUE

14 v. CERTIFICATE OF APPEALABILITY, AND

DIRECTING CLERK OF COURT TO ENTER

15 JUDGMENT AND CLOSE CASE

16 (Doc. 17) JASON SCHULTZ, Warden, 17 Respondent. 18 19 20 Petitioner Victor Alfonso
Hernandez is a state prisoner proceeding with a petition for writ 21 of habeas corpus pursuant to
28 U.S.C. § 2254. This matter was referred to a United States 22 Magistrate Judge pursuant to 28
U.S.C. § 636(b)(1)(B) and Local Rule 302. 23 On October 31, 2024, the assigned magistrate judge
issued findings and recommendations 24 to deny the petition on its merits. Doc. 17. Those
findings and recommendations were served 25 upon all parties and contained notice that any
objections thereto were to be filed within twenty- 26 one (21) days after service. On November
21, 2024, petitioner filed objections to the findings and 27 recommendations. Doc. 18. 28 In
accordance with the provisions of 28 U.S.C. § 636(b)(1), the Court has conducted a de 1 novo
review of the case. Having carefully reviewed the file, including petitioner's objections, the 2
Court concludes that the findings and recommendations are supported by the record and proper 3
analysis. Petitioner's objections do not raise any argument that the findings and 4
recommendations did not correctly and thoroughly address. 5 Having found that petitioner is not
entitled to habeas relief, the Court turns to whether a 6 certificate of appealability should issue. A
petitioner seeking a writ of habeas corpus has no 7 absolute entitlement to appeal a district court's
denial of his petition, and an appeal is allowed 8 only in certain circumstances. Miller-El v.

Cockrell, 537 U.S. 322, 335-336 (2003). If a court 9 denies a habeas petition on the merits, the court may only issue a certificate of appealability “if jurists 10 of reason could disagree with the district court’s resolution of [the petitioner’s] constitutional claims 11 or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed 12 further.” Miller-El, 537 U.S. at 327; Slack v. McDaniel, 529 U.S. 473, 484 (2000). While the 13 petitioner is not required to prove the merits of his case, he must demonstrate “something more than 14 the absence of frivolity or the existence of mere good faith on his . . . part.” Miller-El, 537 U.S. at 15 338. 16 In the present case, the Court finds that reasonable jurists would not find the Court’s 17 determination that the petition should be denied debatable or wrong, or that the issues presented are 18 deserving of encouragement to proceed further. Petitioner has not made the required substantial 19 showing of the denial of a constitutional right. Therefore, the Court declines to issue a certificate of 20 appealability. 21 / / / 22 / / / 23 / / / 24 / / / 25 / / / 26 / / / 27 / / / 28 / / / 1 Accordingly, 2 1. The findings and recommendations issued on October 31, 2024, Doc. 17, are 3 adopted in full; 4 2. The petition for writ of habeas corpus is denied with prejudice; 5 3. The Clerk of Court is directed to enter judgment and close the case; and 6 4. The Court declines to issue a certificate of appealability. 4 8

g | SO ORDERED. _

10 Dated: _ May 14, 2025 4h .

UNITED STATES DISTRICT JUDGE

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