

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

Timothy Eric Buford v. Raybon Johnson

Buford v. Johnson · No. 5:22-cv-00026-FLA (SK) · Decided September 30, 2025

OPINION

Timothy Eric Buford v. Raybon Johnson

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 TIMOTHY ERIC BUFORD, Case No. 5:22-cv-00026-FLA (SK) 12 Plaintiff,

ORDER ACCEPTING REPORT AND

13 v. RECOMMENDATION TO DENY

HABEAS PETITION

14

RAYBON JOHNSON,

15 Defendant. 16

17 18 Pursuant to 28 U.S.C. § 636, the court has reviewed the filed Report and 19
Recommendation to Deny Habeas Petition (“Report”) and any relevant records if 20 needed.
Further, the court has engaged in a de novo review of those portions of the 21 Report to which
objections have been made. 22 The Report recommends the denial of the Petition and the
dismissal of this 23 action with prejudice. Dkt. 61. Petitioner filed objections that exceeded the
page 24 limitation without authorization. Dkt. 67. Nonetheless, the objections have been 25
considered in their entirety. Petitioner’s objections do not merit any change to the 26 Report’s
findings or recommendations. 27 Petitioner objects that the introduction of materially false
evidence and 28 testimony about a firearm deprived him of a fair trial. Dkt. 67 at 5–6, 28–30, 36–
37, 1 48–49. The court agrees with the Report that Petitioner failed to show entitlement to 2 relief
under *Napue v. Illinois*, 360 U.S. 264 (1969). Dkt. 61 at 19–21. Petitioner did 3 not show that any
firearm evidence from his trial was false, and he did not show that 4 any such evidence was
material because Petitioner was never found guilty of any 5 firearm offense or allegation tied to
his burglary and robbery counts. Id. 6 Petitioner objects that the prosecution breached its
obligations under *Brady v. 7 Maryland*, 373 U.S. 83 (1963), at the preliminary hearing. Dkt. 67 at
6–8, 48–49. 8 The allegedly suppressed Brady material was “false firearm evidence” and evidence
9 that the victim had a history as a witness in another case. Id. The court agrees with 10 the Report
that Petitioner failed to show a Brady violation. Dkt. 61 at 17–19. The 11 allegedly false nature of

the firearm evidence was not suppressed because it would 12 have been known to Petitioner that the firearm did not belong to him, and it was not 13 material because the jury did not reach a verdict on the firearm charges. *Id.* at 19. 14 The victim's history as a witness also was known to Petitioner. *Id.* at 18. 15 Petitioner objects that his right to self-representation was violated when he was 16 not allowed to represent himself at trial. Dkt. 67 at 8–23. The court agrees with the 17 Report that Petitioner failed to show entitlement to relief under *Faretta v. California*, 18 422 U.S. 806 (1975). Dkt. 61 at 30–33. The right to self-representation “cannot be ‘a 19 license not to comply with relevant rules of procedural and substantive law,’ and a 20 trial court may terminate self-representation where a defendant ‘deliberately engages 21 in serious and obstructionist misconduct.’” *Cooks v. Newland*, 395 F.3d 1077, 1080 22 (quoting *Faretta*, 422 U.S. at 834 n. 46). Here, the trial judge terminated Petitioner's 23 pro se status (which Petitioner had requested on the day of trial and had been 24 contingent upon his being ready for trial) after Petitioner had filed “a stack of 25 motions” and had asserted he was no longer ready for trial. Dkt. 41-4 at 32–35. “In 26 those circumstances evidencing transparent efforts to delay trial, it did not violate 27 petitioner's right to represent himself when the trial court reappointed counsel.” Dkt. 28 61 at 32. Although Petitioner relatedly objects that the trial court erroneously failed to 1 rule on his pending pro se motions, Dkt. 67 at 9–10, the trial court was not required to 2 consider them once it revoked Petitioner's pro se status. See *United States v. 3 Bergman*, 813 F.2d 1027, 1030 (9th Cir. 1987) (trial court was not required to 4 acknowledge pro se filings by a criminal defendant who was represented by counsel). 5 Petitioner objects that his counsel from his preliminary hearing, trial, and appeal 6 were ineffective. Dkt. 67 at 23–28. The court agrees with the Report that Petitioner 7 failed to show entitlement to relief under *Strickland v. Washington*, 466 U.S. 668 8 (1984). Dkt. 61 at 26–28. Because Petitioner alleges counsel was ineffective in 9 handling issues that are meritless, such as the firearm evidence that did not lead to a 10 verdict, the *Strickland* claims necessarily fail. *Id.* at 26 (citing *Juan H. v. Allen*, 408 11 F.3d 1262, 1273 (9th Cir. 2005)). 12 Moreover, counsel's failure to file the various motions Petitioner alleges should 13 have been filed does not satisfy the *Strickland* standard. As the Report found, 14 Petitioner “must show that (1) had his counsel filed the motion, it is reasonable that 15 the trial court would have granted it as meritorious, and (2) had the motion been 16 granted, it is reasonable that there would have been an outcome more favorable to 17 him.” Dkt. 61 at 28 (quoting *Wilson v. Henry*, 185 F.3d 986, 990 (9th Cir. 1999)). 18 Petitioner makes no attempt to satisfy these requirements, but only objects in a 19 conclusory manner that various motions were not filed. Dkt. 67 at 26–27. 20 Petitioner objects that his right to conflict-free counsel was violated by his 21 attorneys for the preliminary hearing and the trial. Dkt. 67 at 30–34, 38–42. The 22 court agrees with the Report that Petitioner failed to identify a conflict of interest.

23 Dkt. 61 at 30. Petitioner offers only “general criticisms” of his attorneys’

24 performance, which is insufficient to show an actual conflict of interest. See *Clark v. 25 Chappell*, 936 F.3d 944, 985 (9th Cir. 2019). 26 Petitioner objects that the dismissal of an African

American juror was 27 discriminatory. Dkt. 67 at 34–36. The court agrees with the Report that Petitioner 28 failed to show entitlement to relief under *Batson v. Kentucky*, 476 U.S. 79 (1986).

1 Dkt. 61 at 16–17. Petitioner failed to show a prima facie case of discrimination from

2 “[t]he mere fact that a black juror was stricken.” *Id.* at 17 (citing *United States v. 3 Hernandez-Quintania*, 874 F.3d 1123, 1129 (9th Cir. 2017)). The record also showed 4 race-neutral reasons for the strike of the juror, Prospective Juror No. 53: her ex- 5 husband’s case was similar to this case and lasted for 18 months; the police were once 6 called because she shot at her fiancée, and she thought this case sounded “really 7 weird” or “funny.” Dkt. 41-6 at 55, 67–68, 70–71. Moreover, the prosecutor accepted 8 the other two African American jurors as alternates. *Id.* at 105. “The above facts, 9 viewed objectively, do not raise a reasonable inference of racial bias.” *Cooperwood v. 10 Cambra*, 245 F.3d 1042, 1048 (9th Cir. 2001). Although Petitioner relatedly objects 11 that the prosecutor failed to state independent reasons for striking the juror, Dkt. 67 at 12 35, the prosecutor was not required to state any reasons because the claim failed to 13 proceed beyond *Batson*’s first step. See *Cooperwood*, 245 F.3d at 1045 (“If the 14 defendant fails to establish a prima facie case, the burden does not shift to the 15 prosecution, and the prosecutor is not required to offer an explanation for the 16 challenge.”). 17 Petitioner objects that the trial judge’s restriction of evidence impeaching the 18 victim’s credibility about the value of the stolen guitar was structural error. Dkt. 67 at 19 37. The court agrees with the Report that Petitioner failed to show a violation of the 20 Confrontation Clause. Dkt. 61 at 21. “Petitioner was convicted of only burglary, 21 which requires no proof of the monetary value of any items that were stolen.” *Id.* 22 Petitioner objects that the trial court arbitrarily denied him the right to present 23 materially favorable witness testimony. Dkt. 67 at 42–43. The testimony allegedly 24 would have shown that Petitioner had experienced ongoing conflicts with the victim’s 25 roommate, who “inserted himself” into Petitioner’s case. Dkt. 26 at 55–57. The court 26 agrees with the Report that Petitioner failed to show a violation of his right to present 27 a defense. Dkt. 61 at 21–23. The victim’s roommate was not at the house during the 28 burglary, and Petitioner “never explains how his alleged checkered past with [the 1 roommate] could have bolstered his overarching defense.” *Id.* at 22. Moreover, 2 Petitioner did testify about his fraught relationship with the roommate. Dkt. 41-5 at 3 8–9, 22. 4 Petitioner objects that, under the totality of the circumstances, he was coerced 5 into giving incriminating statements to the police. Dkt. 67 at 43–45. The court agrees 6 with the Report that Petitioner failed to show that his statements were involuntary.

7 Dkt. 61 at 15–16. The police officers’ alleged vagueness about the charges behind

8 Petitioner’s arrest did not render his statements involuntary. *Id.* at 16 (citing *Balbuena 9 v. Sullivan*, 980 F.3d 619, 629 (9th Cir. 2020)). Although Petitioner relatedly objects, 10 in a vague manner, that he had disabilities requiring “medical appliances and 11 equipment,” Dkt. 67 at 44, this bare allegation is insufficient to show his statements 12 were involuntary. See *United States v. Coleman*, 208 F.3d 786, 791 (9th Cir. 2000) 13 (lethargy and physical discomfort were insufficient to establish involuntariness) 14 (citing *United States v. Martin*, 781 F.2d 671, 674 (9th Cir. 1985)

(grogginess and 15 painful injuries were insufficient to establish involuntariness)). 16 Petitioner objects that the trial court's instructions to the jury were misleading.

17 Dkt. 67 at 45–47. The court agrees with the Report that Petitioner failed to show 18 instructional error. Dkt. 61 at 23–25. The trial judge explained to the jurors that they 19 needed to reach a unanimous “guilt or not guilty” verdict on burglary and then 20 separately a unanimous “true or not true” finding on the firearm allegation. Dkt. 41-5 21 at 173. The jury's inability to reach a unanimous verdict on the firearm allegation did 22 not mean the jury could not reach a unanimous guilty verdict on the burglary charge.

23 Dkt. 61 at 24.

24 Petitioner objects that the trial court failed to take notice that his legal 25 representation was inadequate. Dkt. 67 at 48. On the contrary, the trial court was not 26 required “to question counsel's trial strategy” or to “raise sua sponte the inadequacy of 27 [Petitioner's] representation.” *United States v. Wagner*, 834 F.2d 1474, 1483 (9th Cir. 28 1987). 1 Petitioner objects that he did not intend to commit a theft or felony upon his 2 entry into the victim's residence. Dkt. 67 at 49–53. The court agrees with the Report 3 that Petitioner failed to show entitlement to relief under *Jackson v. Virginia*, 443 U.S. 4 307 (1979). Dkt. 61 at 10–12. The evidence was sufficient for a rational jury to find 5 Petitioner guilty of burglary. A rational jury could believe the victim's testimony that 6 Petitioner took property that did not belong to him, could draw a negative inference 7 from evidence that Petitioner arrived at the residence in a pickup truck used to 8 transport bulky items, and could disbelieve Petitioner's explanation that he took a 9 valuable guitar as collateral for a petty debt. *Id.* 10 Petitioner objects that he was out of prison for more than ten years before the 11 instant offenses and, therefore, was outside the spirit of California's Three Strikes 12 Law. Dkt. 67 at 54. The court agrees with the Report that this is a state-law claim 13 that is not cognizable in a federal habeas proceeding. Dkt. 61 at 13–14. 14 Petitioner objects that the prosecutor introduced new facts during his closing 15 argument. Dkt. 67 at 54. The alleged new fact was the prosecution's display of the 16 state seal on their computer screen during closing arguments. Dkt. 26 at 79–81. The 17 court agrees with the Report that Petitioner failed to show prosecutorial misconduct.

18 Dkt. 61 at 23. It was obvious that Petitioner was being prosecuted by the state. *Id.*

19 Moreover, it is presumed that the jury followed its instructions not to let bias influence 20 its decision, to impartially consider the evidence admitted during trial, and to consider 21 arguments as only arguments but not evidence. *Id.* Petitioner failed to overcome that 22 presumption. 23 Petitioner objects that the trial judge knew of Petitioner's conflicts with his trial 24 counsel. Dkt. 67 at 55–57. The court agrees with the Report that Petitioner failed to 25 show an irreconcilable conflict with his counsel. Dkt. 61 at 29. Petitioner testified he 26 lacked confidence or trust in his trial counsel because of disagreements over strategy 27 and what Petitioner perceived as counsel's poor performance. Dkt. 41-21 at 131–37, 28 184–92, 350–56. From this evidence, Petitioner failed to show an irreconcilable 1 | conflict because he failed to show a complete breakdown in

communication, rather 2 || than mere disagreements over strategy or tactical decisions. Dkt. 61 at 29 (citing 3 || *Stenson v. Lambert*, 504 F.3d 873, 886 (9th Cir. 2007)). 4 Finally, Petitioner filed an application for leave to file a Reply to the Report and 5 | a motion for discovery and/or an evidentiary hearing. Dkts. 70, 72. The application 6 | for leave to file a Reply is DENIED as moot because Petitioner already has filed 7 || objections to the Report. The motion for discovery and/or an evidentiary hearing is 8 | DENIED because Petitioner has not shown colorable entitlement to relief for 9 | discovery and because the existing record is sufficient to render an evidentiary hearing 10 | unnecessary. See *Rich v. Calderon*, 187 F.3d 1064, 1068 (9th Cir. 1999) (discovery 11 | was not warranted where none of Petitioner’s claims was supported by evidence 12 | showing colorable entitlement to relief); see also *Schriro v. Landrigan*, 550 U.S. 465, 13 | 474 (2007) (When state court record “refutes the applicant’s factual allegations or 14 | otherwise precludes habeas relief, a district court is not required to hold an evidentiary 15 | hearing.”); *Totten v. Merkle*, 137 F.3d 1172, 1176 (9th Cir. 1998) (“It is axiomatic that 16 | when issues can be resolved with reference to the state court record, an evidentiary 17 | hearing becomes nothing more than a futile exercise.”). 18 THEREFORE, the court accepts the Report and Recommendation and 19 | ORDERS that the petition under 28 U.S.C. § 2254 be DENIED. Petitioner’s motions 20 | also are DENIED. Dkts. 70, 72. Accordingly, judgment will be entered dismissing 21 | this action with prejudice. 22 23 IT IS SO ORDERED. 24 25 | Dated: September 30, 2025

6 FERNAND . AENLLE-ROCHA

United States District Judge 27 28