

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

**Jason Chungchien Yu v. Neil McDowell, as Acting Warden, Ironwood
State Prison**

Yu v. McDowell · No. 5:22-cv-01040-FWS-DTB · Decided November 17, 2025

OPINION

Jason Chungchien Yu v. Neil McDowell, as Acting Warden, Ironwood State Prison

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION

10 Case No. 5:22-cv-01040-FWS-DTB 11

12 JASON CHUNGCHIEN YU, ORDER ACCEPTING FINDINGS,

13 CONCLUSIONS AND

Petitioner, RECOMMENDATIONS OF UNITED

14 STATES MAGISTRATE JUDGE [49]

15 v. AND OVERRULING OBJECTIONS

[51]

16

NEIL MCDOWELL, AS ACTING

17 WARDEN, IRONWOOD STATE

PRISON,

18 19 Respondant. 20 21 22 I. Introduction and Relevant Procedural History 23 Before the court is
the Magistrate Judge’s September 24, 2025, Report and 24 Recommendation. (Dkt. 49 (“Report
and Recommendation” or “R&R”).) Based on 25 the state of the record, as applied to the
applicable law, the court ADOPTS the Report 26 and Recommendation issued by the Magistrate
Judge, including each of the findings 27 of fact and conclusions of law therein. 28 1 In summary,
on June 27, 2022, Petitioner Jason Chungchien Yu (“Petitioner”) 2 filed a Petition for Writ of
Habeas Corpus by a Person in State Custody under 28 3 U.S.C. § 2254. (Dkt. 1.) On that same
date, Petitioner filed a Motion for a Kelly Stay, 4 pursuant to Kelly v. Small, 315 F.3d 1063 (9th
Cir. 2003), that requested “to hold his 5 federal petition in abeyance while he exhausts remaining
available remedies in state 6 court.” (Dkt. 2 (“Motion for Kelly Stay”).) On July 21, 2022, the
Magistrate Judge 7 granted the Motion for a Kelly Stay, imposed a Kelly stay, and included an
order 8 requiring periodic status reports. (Dkt. 5.) On July 28, 2025, Petitioner filed an 9 Amended
Petition. (Dkt. 6.) From August 15, 2022, to June 25, 2024, seventeen 10 status reports were filed.

(Dkts. 7-17, 19-24.) 11 On June 26, 2024, the Magistrate Judge vacated the Kelly stay. (Dkt. 25.)
On

12 July 11, 2024, Petitioner filed the Second Amended Petition. (Dkt. 26. (“SAP” or the
13 “Petition”).) On August 27, 2024, Respondent Neil McDowell (“Respondent”) filed a 14
Motion to Dismiss the SAP, (Dkts. 30-31 (“MTD”)), that Petitioner opposed on
15 September 19, 2025, (Dkt. 33). On January 27, 2025, the court granted in part and
16 denied in part the MTD. (Dkt. 37.) 17 On March 10, 2025, Respondent filed the Answer to the
Petition. (Dkt. 41 18 (“Answer”).) On April 1, 2025, Petitioner filed the Reply/Traverse to the
Answer. 19 (Dkt. 45 (“Reply”).) On September 24, 2025, the Magistrate Judge issued the Report
20 and Recommendation. (Dkt. 49.) On October 8, 2025, Petitioner objected to the 21 Report and
Recommendation. (Dkt. 51 (“Objections”).) 22 II. Discussion 23 “A judge of the court may
accept, reject, or modify, in whole or in part, the 24 findings or recommendations made by the
magistrate judge.” 28 U.S.C. 25 § 636(b)(1)(C); see also Fed. R. Civ. P. 72(b)(3) (stating “[t]he
district judge must 26 determine de novo any part of the magistrate judge’s disposition that has
been 27 properly objected to,” and “[t]he district judge may accept, reject, or modify the 28
recommended disposition; receive further evidence; or return the matter to the 1 magistrate judge
with instructions”). Proper objections require “specific written 2 objections to the proposed
findings and recommendations” of the magistrate judge. 3 Fed. R. Civ. P. 72(b)(2). “A judge of the
court shall make a de novo determination of 4 those portions of the report or specified proposed
findings or recommendations to 5 which objection is made.” 28 U.S.C. § 636(b)(1)(C); see also
United States v. Reyna- 6 Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003) (“The statute makes it clear
that the 7 district judge must review the magistrate judge’s findings and recommendations de 8
novo if objection is made, but not otherwise.”). Where no objection has been made, 9 arguments
challenging a finding are deemed waived. See 28 U.S.C. § 636(b)(1)(C) 10 (“Within fourteen days
after being served with a copy, any party may serve and file 11 written objections to such
proposed findings and recommendations as provided by 12 rules of court.”). Moreover,
“[o]bjections to a R&R are not a vehicle to relitigate the 13 same arguments carefully considered
and rejected by the Magistrate Judge.” Chith v. 14 Haynes, 2021 WL 4744596, at *1 (W.D. Wash.
Oct. 12, 2021). 15 Here, in the Report and Recommendation, the Magistrate Judge recommended
16 that the court issue an order: 17

(1) Approving and accepting this Report and Recommendation; and
18 (2) directing that Judgment be entered denying the Petition and dismissing this action with
prejudice. 19 20 (R&R at 53.) 21 In the Objections, Petitioner argues that Habeas Relief is
warranted on grounds 22 one through four. (See generally Petition.) Petitioner asserts that he “has
demonstrated 23 that his Constitutional rights under the Sixth and Fourteenth Amendments were
24 violated,” and accordingly, the court “should grant the within writ and release 25 Petitioner.”
(Id. at 10.) 26 After conducting a de novo review of the Objections, the court agrees with each 27
of the findings of fact and conclusions of law set forth in the Report and 28 Recommendation,

including each of the recommendations contained therein. 1 | Accordingly, Petitioner's arguments set forth in the Objections are **OVERRULED** on 2 | the merits. 3 In sum, pursuant to 28 U.S.C. § 636, the court has reviewed and considered the 4 | files and records of the case, including the Report and Recommendation, the Petition, 5 | the Answer, the Reply, the Objections, and the other records of the case. After 6 | conducting a de novo review of the Objections, the court concurs with and accepts the 7 | findings and conclusions of the Magistrate Judge in the Report and Recommendation. 8 Il. Conclusion 9 Based on the state of the record, as applied to the applicable law, the court 10 | concurs with and accepts the findings, conclusions and recommendations of the 11 | Magistrate Judge in the Report and Recommendation. Accordingly, the court 12 | **ORDERS** that Judgment is entered **DENYING** the Petition and **DISMISSING** this 13 | action **WITH PREJUDICE**. 14 15 **LET JUDGMENT BE ENTERED ACCORDINGLY**. 16 18 Dated: November 17, 2025 Hon. Fred W. Slaughter
19 UNITED STATES DISTRICT JUDGE
20 21 22 23 24 25 26 27 28