

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Emiliano Isidro Enriquez v. R. Godwin

Enriquez v. Godwin · No. 1:21-cv-0930 JLT HBK (HC) · Decided February 26, 2025

OPINION

(HC) Emiliano I. Enriquez v. Godwin

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 EMILIANO ISIDRO ENRIQUEZ,) Case No.: 1:21-cv-0930 JLT HBK (HC)) 12

Petitioner,) ORDER ADOPTING THE FINDINGS AND

) RECOMMENDATIONS, DENYING PETITION

13 v.) FOR WRIT OF HABEAS CORPUS,

) DIRECTING CLERK OF COURT TO CLOSE

14 R. GODWIN,) CASE, AND DECLINING TO ISSUE

) CERTIFICATE OF APPEALABILITY

15 Respondent.)) (Docs. 1, 17) 16) 17 Emiliano Isidro Enriquez is a state prisoner proceeding
pro se with his petition for writ of 18 habeas corpus pursuant to 28 U.S.C. § 2254, raising grounds
for relief related to: the trial court’s 19 denial of Petitioner’s motion to set aside the Information,
sufficiency of the evidence, jury 20 instructions, admissibility of gang expert testimony, and
reliance on uncorroborated accomplice 21 testimony. (See generally Doc. 1 at 5-10, 16-40.) The
magistrate judge observed that Petitioner 22 raised each ground on direct appeal and found “each
ground is exhausted.” (Doc. 17 at 12.) 23 The magistrate judge found that Petitioner’s argument
related to the denial of his motion 24 to set aside the Information was “based on an alleged
violation of state law,” which was not a 25 cognizable federal habeas claim. (Doc. 17. at 13.)
Next, the magistrate judge found “the state 26 appellate court’s rejection of Petitioner’s
sufficiency of the evidence claims was not contrary to, 27 or an unreasonable application of,
clearly established Supreme Court precedent, nor an 28 unreasonable determination of the facts.”
(Id. at 23; see also id. at 13-23.) The magistrate judge 1 found the state court “correctly identified
and applied ... the clearly established federal law 2 applicable to confrontation claims involving
hearsay,” and Petitioner did not show error related to 3 the use of officers’ reports and gang expert
testimony. (Id. at 25-26.) Furthermore, the 4 magistrate judge found Petitioner’s assertions of error
related to jury instructions also lacked 5 merit. (Id. at 24-25, 28-30.) Finally, the magistrate judge
found Petitioner’s assertions regarding 6 accomplice testimony were premised upon state law, and

did not invoke the Constitution or 7 federal law. (Id. at 31.) To the extent the ground regarding accomplice testimony could be 8 construed as a challenge to sufficiency of the evidence, the magistrate judge found “a rational 9 trier of fact could conclude Petitioner was the shooter, [and] the state court’s rejection of this 10 claim was not contrary to, or an unreasonable application of, clearly established Supreme Court 11 precedent.” (Id. at 32.) Therefore, the magistrate judge recommended the Court deny all 12 requested grounds for relief in the petition. (Id. at 32.) 13 The magistrate judge also considered whether the Court should issue a certificate of 14 appealability. (Doc. 17 at 32.) The magistrate judge observed, “[a] petitioner seeking a writ of 15 habeas corpus has no absolute entitlement to appeal, rather an appeal is only allowed in certain 16 circumstances.” (Id., citing *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003); 28 U.S.C. § 17 2253.) The magistrate judge also noted the Court will not issue a certificate of appealability 18 “unless a petitioner makes “a substantial showing of the denial of a constitutional right.” (Id., 19 quoting 28 U.S.C. § 2253(c)(2).) Because Petitioner failed to carry this burden, the magistrate 20 judge recommended the Court not issue a certificate of appealability. (Id.) 21 The Court served the Findings and Recommendations upon Petitioner and ordered that 22 any objections must be filed within 14 days of the date of service. (Doc. 17 at 33.) The Court 23 also informed Petitioner that the “failure to file objections within the specified time may result in 24 the waiver of certain rights on appeal.” (Id., citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th 25 Cir. 2014).) Petitioner did not file objections and the time to do so has expired.

26 According to 28 U.S.C. § 636(b)(1), this Court performed a de novo review of this case. 27 Having carefully reviewed the matter, the Court concludes the Findings and Recommendations 28 are supported by the record and proper analysis. In addition, reasonable jurists would not find the 1 | Court’s denial of the petition debatable or wrong, or that the issues presented are deserving of 2 | encouragement to proceed further. As the magistrate judge found, Petitioner did not make the 3 | required substantial showing of the denial of a constitutional right. Thus, the Court ORDERS: 4 1. The Findings and Recommendations issued on January 28, 2025 (Doc. 17) are 5 ADOPTED in full. 6 2. The petition for writ of habeas corpus (Doc. 1) is DENIED. 7 3. The Court declines to issue a certificate of appealability. 8 4. The Clerk of Court is directed to close the case. 9 10 IT IS SO ORDERED. 11 Dated: _ February 26, 2025 Cerin | Tower

TED STATES DISTRICT JUDGE

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