

UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF  
CALIFORNIA

**Tom Love Vinson v. Raymond Madden**

Vinson v. Madden · No. 2:18-cv-06783-FLA (JC) · Decided July 9, 2025

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OPINION

Tom Love Vinson v. Raymond Madden

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 CENTRAL DISTRICT OF CALIFORNIA

10 11 TOM LOVE VINSON, Case No. 2:18-cv-06783-FLA (JC) 12 Petitioner,

ORDER ACCEPTING FINDINGS,

13 v. CONCLUSIONS, AND

RECOMMENDATIONS OF UNITED

14 STATES MAGISTRATE JUDGE

RAYMOND MADDEN, [DKT. 53] AND DISMISSING

15 Respondent. ACTION 16 17 18 19 20 21 22 23 24 25 26 27 28 1 Pursuant to 28 U.S.C. § 636,  
the court has reviewed the Petition for Writ of 2 Habeas Corpus by a Person in State Custody  
pursuant to 28 U.S.C. § 2254 (“Petition,”

3 Dkt. 1) and all of the records herein, including the February 24, 2025 Report and

4 Recommendation of United States Magistrate Judge (the “Report,” Dkt. 53) and 5 Petitioner  
Tom Love Vinson’s (“Petitioner”) Objections to the Report (“Objection,”

6 Dkt. 57).<sup>1</sup> The court has further made a de novo review of those portions of the

7 Report to which Petitioner objected. 8 The Report recommends the denial of the Petition and the  
dismissal of this 9 action with prejudice. Petitioner’s Objections do not merit any change to the  
Report’s 10 findings or recommendations. 11 Petitioner objects to the Report’s finding that the  
claims in Grounds One to 12 Three are procedurally defaulted. Dkt. 57 (“Obj.”) at 12-27.

Petitioner objects that 13 the state procedural rule, based on untimeliness, is inadequate because  
his was the 14 “exceptional case” requiring multiple state appeals. Id. at 13, 26. Petitioner’s 15  
argument, however, does not demonstrate inadequacy. It is well-established that 16 California’s  
untimeliness rule is adequate. See *Ayala v. Chappell*, 829 F.3d 1081, 17 1095 (9th Cir. 2016)  
(noting the Supreme Court ruled in *Walker* that “California’s 18 timeliness rule is an independent  
and adequate state law ground sufficient to bar 19 federal habeas relief on untimely claims”)  
(citing *Walker v. Martin*, 562 U.S. 307, 316 20 (2011)). Instead, Petitioner argues the procedural  
rule was misapplied in his case, 21 which is an argument the court has no authority to review. See

Martinez v. Ryan, 926 22 F.3d 1215, 1224 (9th Cir. 2019) (rejecting argument of inadequacy based on a state 23 court’s alleged misinterpretation of its own rules, holding that “[w]e lack jurisdiction 24 to consider that contention.”) (citing Poland v. Stewart, 169 F.3d 573, 584 (9th Cir. 25 1999) (“Federal habeas courts lack jurisdiction ... to review state court applications of 26 27 1This court, in an exercise of its discretion, declines to consider new evidence and arguments presented for the first time in the Objection. See United States v. Howell, 28 231 F.3d 615, 621 (9th Cir. 2000), cert. denied, 534 U.S. 831 (2001). 1 state procedural rules.”)); Johnson v. Foster, 786 F.3d 501, 508 (7th Cir. 2015) (“[A] 2 federal habeas court is not the proper body to adjudicate whether a state court 3 correctly interpreted its own procedural rules, even if they are the basis for a 4 procedural default.”). 5 Petitioner objects that he has established cause and prejudice to overcome the 6 procedural default of his claims in Grounds One and Two. Obj. at 27-37. Petitioner 7 argues the factual and legal basis for his claims were not reasonably available before 8 he raised them in state court. Id. at 30, 33. To the contrary, as the Report found, the 9 claims in Ground One and Two, ineffective assistance of trial counsel and insufficient 10 evidence for the gang enhancement, “were clearly available at the time [Petitioner] 11 defaulted them.” Dkt. 53 (“R. & R.”) at 18. “In short, Petitioner has not demonstrated 12 cause for his procedural default.” Id. at 19. 13 Petitioner objects that he has demonstrated a fundamental miscarriage of justice 14 to overcome the procedural default of his claims in Grounds One and Two. Obj. at 15 30, 36. As the Report found, the eyewitness account of Brad Van (“Van”) was 16 “manifestly insufficient” to satisfy the actual-innocence standard of Schlup v. Delo, 17 513 U.S. 298 (1995). R. & R. at 22. The state trial court found that Van’s post- 18 verdict testimony was not credible, which is a finding entitled to a presumption of 19 correctness and deference from federal habeas courts. Id. Moreover, Van’s testimony 20 about pulling up his gun into position in his waistband would not have supported 21 Petitioner’s theory that he committed the shooting in self-defense after seeing 22 someone pull out a gun, raise it, and point it at him. Id. at 24-25. 23 Petitioner objects that the trial court erred in failing to respond adequately to the 24 jury’s question on transferred intent. Obj. at 38-41. In response to the question, the 25 trial court read the applicable instruction to the jury. Dkt. 19-14 at 18-19. The 26 California Court of Appeal’s rejection of this claim was not objectively unreasonable.

27 Dkt. 12-1 at 9. “[T]here is nothing to show that the jury gave up on getting its 28 questions answered rather than received the guidance it needed to apply the 1 instructions it had received.” Id. Further, as the Report found, Petitioner has not 2 | overcome the presumption that a jury follows its instructions and understands the trial 3 || court’s answer to its questions. R. & R. at 33. 4 The court has conducted the review required by 28 U.S.C. § 636 and ACCEPTS 5 | the findings, conclusions, and recommendation of the Magistrate Judge reflected in 6 | the February 24, 2025, Report. The court ORDERS as follows: 7 1. The Petition is DENIED; 8 2. The Petition and this action are DISMISSED, and Judgment shall be 9 entered accordingly; and 10 3. The Clerk shall serve copies of this Order, the Report and 1] Recommendation, and the Judgment

herein on counsel for Petitioner and 12 Respondent. 13 14 IT IS SO ORDERED. 15 16 | Dated:  
July 9, 2025  
17 FERNANDO'L. AENLLE-ROCHA  
United States District Judge 18 19 20 21 22 23 24 25 26 27 28

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