

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

Roberto Saldana, Jr. v. M. E. Spearman

Saldana Jr. v. Spearman · No. 1:21-cv-01733-KES-HBK (HC) · Decided June 24, 2025

SUMMARY

The United States District Court for the Eastern District of California adopted the magistrate judge’s findings and recommendations and denied Roberto Saldana, Jr.’s petition for a writ of habeas corpus under 28 U.S.C. § 2254. The court declined to issue a certificate of appealability and directed the clerk to close the case.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 ROBERTO SALDANA, JR.,) No.: 1:21-cv-01733-KES-HBK (HC)) 12
Petitioner,) ORDER ADOPTING FINDINGS AND) RECOMMENDATIONS, DENYING
PETITION 13 v.) FOR WRIT OF HABEAS CORPUS,) DIRECTING CLERK OF COURT TO
CLOSE 14 M. E. SPEARMAN, Warden,) CASE, AND DECLINING TO ISSUE)
CERTIFICATE OF APPEALABILITY 15 Respondent.)) Docs.

1, 31 16) 17 Petitioner Roberto Saldana, Jr. is a state prisoner proceeding pro se with a petition
for writ 18 of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. 9. The matter was referred to a
United 19 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20
On April 23, 2025, the assigned magistrate judge issued findings and recommendations 21
recommending that the petition for writ of habeas corpus be denied as without merit, and that the
22 Court decline to issue a certificate of appealability.

Doc. 31. Those findings and 23 recommendations were served upon all parties and contained
notice that any objections thereto 24 were to be filed within fourteen (14) days after service.
Petitioner has not filed objections, and 25 the deadline to do so has expired. 26 In accordance with
28 U.S.C. § 636(b)(1), this Court performed a de novo review of this 27 case.

Having carefully reviewed the matter, the Court concludes the findings and 28 1 ||
recommendations are supported by the record and proper analysis. 2 Having found that petitioner
is not entitled to habeas relief, the Court turns to whether a 3 | certificate of appealability should
issue. A petitioner seeking a writ of habeas corpus has no 4 | absolute entitlement to appeal, rather
an appeal is allowed only in certain circumstances.

Miller- 5 | Elv. Cockrell, 537 U.S. 322, 335-36 (2003); 28 U.S.C. § 2253. If a Court denies a habeas 6 | petition on the merits, the Court may issue a certificate of appealability only “if jurists of reason 7 | could disagree with the district court’s resolution of [the petitioner’s] constitutional claims or that 8 | jurists could conclude the issues presented are adequate to deserve encouragement to proceed 9 | further.” Miller-El, 537 U.S. at 327; Slack v. McDaniel, 529 U.S. 473, 484 (2000).

While the 10 | petitioner is not required to prove the merits of his case, he must demonstrate “something more 11 | than the absence of frivolity or the existence of mere good faith on his... part.” Miller-El, 537 12 | US. at 338. 13 The Court finds that reasonable jurists would not find the Court’s determination that the 14 | petition should be denied debatable or wrong, or that the issues presented are deserving of 15 || encouragement to proceed further.

Petitioner has not made the required substantial showing of 16 | the denial of a constitutional right. Therefore, the Court declines to issue a certificate of 17 || appealability. 18 Based upon the foregoing, the Court ORDERS: 19 1.

The findings and recommendations issued on April 23, 2025, Doc. 31, are 20 ADOPTED in full. 21 2. The petition for writ of habeas corpus, Doc. 9, is DENIED. 22 3. The Court declines to issue a certificate of appealability. 23 4.

The Clerk of the Court is directed to close the case. 24 25 26 | IT IS SO ORDERED. _ 27 Dated: _ June 23, 2025 4h | | 38 UNITED STATES DISTRICT JUDGE 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28