

**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

OPINION

(HC) Saldana Jr. v. Spearman

PER CURIAM.

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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