UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

IMMANUEL SHOTWELL,

Petitioner,

v.

PATRICK COVELLO,

Respondent.

No. 2:24-cv-00318-DC-JDP (HC)

ORDER ADOPTING FINDINGS AND RECOMMENDATIONS

(Doc. No. 9)

Petitioner Immanuel Shotwell is a state prisoner proceeding *pro se* and *in forma pauperis* on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 14, 2024, the magistrate judge filed findings and recommendations herein, which were served on Petitioner and contained notice to Petitioner that any objections to the findings and recommendations were to be filed within fourteen (14) days. (Doc. No. 9.) On December 6, 2024, Petitioner filed untimely objections to the findings and recommendations. (Doc. No. 10.) The court reviewed Petitioner's objections and finds they do not provide a basis upon which to reject the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the

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court finds the findings and recommendations to be supported by the record and by proper analysis.

Having concluded that the pending petition must be dismissed, the court also declines to issue a certificate of appealability. A petitioner seeking writ of habeas corpus has no absolute right to appeal; he may appeal only in limited circumstances. *See* 28 U.S.C. § 2253; *Miller-El v. Cockrell*, 537 U.S. 322, 335–36 (2003). If a court denies a petitioner's petition, the court may only issue a certificate of appealability when a petitioner makes a substantial showing of the denial of a constitutional right. 28 U.S.C. § 2253(c)(2). Where, as here, the court denies habeas relief on procedural grounds without reaching the underlying constitutional claims, the court should issue a certificate of appealability if "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). In the present case, the court finds that reasonable jurists would not find the court's determination that the pending petition must be dismissed to be debatable or wrong. Thus, the court declines to issue a certificate of appealability.

Accordingly, IT IS HEREBY ORDERED that:

1. The findings and recommendations filed on November 14, 2024 (Doc. No. 9) are ADOPTED IN FULL;
2. Petitioner's amended petition for a writ of habeas corpus (Doc. No. 6) is DISMISSED as time-barred;
3. The court declines to issue a certificate of appealability; and
4. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: **January 24, 2026**

Dena Coggins
United States District Judge