

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

WILLIAM BELL,

Petitioner,

v.

**ROB PERSSON, Superintendent, Oregon
State Correctional Institution,**

Respondent.

No. 6:12-cv-02367-ST

OPINION AND ORDER

MOSMAN, J.,

On April 1, 2014, Magistrate Judge Stewart issued her Findings and Recommendation (“F&R”) [30] in the above-captioned case, recommending that Petitioner’s Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 be DENIED. Objections [32] were filed and a response [33] was received.

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to

make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Stewart's recommendation, and I ADOPT the F&R [30] as my own opinion. Because petitioner has made a substantial showing of the denial of a constitutional right, a certificate of appealability is granted as to the following issues: whether trial counsel was ineffective in failing to investigate Petitioner's case, causing Petitioner to enter a guilty plea that was not knowing and voluntary. *See* 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 19th day of June, 2014.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge