

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

VANCE WALLACE WORDEN,

Petitioner,

No. 6:19-cv-00898-YY

v.

OPINION AND ORDER

BRANDON KELLY,

Respondent.

MOSMAN, J.,

On March 24, 2021, Magistrate Judge Youlee Yim You issued her Findings and Recommendation (F. & R.) [ECF 38]. Judge You recommends that I dismiss as untimely the Petition for Writ of Habeas Corpus [ECF 2], dismiss this case with prejudice, and decline to issue a certificate of appealability. Petitioner Vance Wallace Worden filed Objections [ECF 40]. Upon review, I agree with Judge You's recommendation and ADOPT her F. & R. as my own opinion.

STANDARD OF REVIEW

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

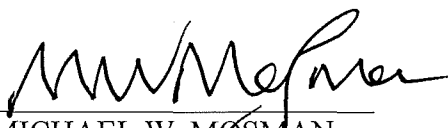
recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F. & R. to which no objections are addressed. *See Thomas 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).

CONCLUSION

I ADOPT Judge You's F. & R. [ECF 38] as my own opinion. I DISMISS as untimely Mr. Worden's Petition for Writ of Habeas Corpus [ECF 2], and I DISMISS this case with prejudice. Because Mr. Worden has not made a substantial showing of the denial of a constitutional right, a certificate of appealability is DENIED. *See* 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 17th day of June, 2021.


MICHAEL W. MOSMAN
United States District Judge