

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

ALFRED BECK ALLEN,

Petitioner,

v.

STATE OF ALASKA,

Respondent.

Case No. 3:16-cv-00234-SLG

**ORDER OF DISMISSAL**

Before the Court at Docket 28 is Petitioner Alfred Allen's First Amended Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254(D). Respondent State of Alaska moved to dismiss the First Amended Petition at Docket 39. Mr. Allen opposed at Docket 40. The State replied at Docket 44.

The First Amended Petition was referred to the Honorable Magistrate Judge Matthew M. Scoble. At Docket 46, Judge Scoble issued his Initial Report and Recommendation, in which he recommended that Mr. Allen's First Amended Petition be denied. At Docket 52, Mr. Allen filed objections to the Initial Report and Recommendation. At Docket 53, Judge Scoble issued his Final Report and Recommendation, in which he recommended that Mr. Allen's First Amended Petition be denied.

The matter is now before this Court pursuant to 28 U.S.C. § 636(b)(1). That statute provides that a district court "may accept, reject, or modify, in whole or in

part, the findings or recommendations made by the magistrate judge.”<sup>1</sup> A court is to “make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.”<sup>2</sup> But as to those topics on which no objections are filed, “[n]either the Constitution nor [28 U.S.C. § 636(b)(1)] requires a district judge to review, de novo, findings and recommendations that the parties themselves accept as correct.”<sup>3</sup>

The Court has reviewed the record de novo and concurs with the Final Report and Recommendation of the Magistrate Judge. See *Coleman v. Thompson*, 501 U.S. 722, 750 (1991). In light of the foregoing, the State of Alaska’s motion to dismiss at Docket 39 is GRANTED and Mr. Allen’s First Amended Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254(D) at Docket 28 is DENIED and DISMISSED.

The Clerk of Court is directed to enter a final judgment consistent with this order.

DATED this 27th day of March, 2019 at Anchorage, Alaska.

/s/ Sharon L. Gleason  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> 28 U.S.C. § 636(b)(1).

<sup>2</sup> *Id.*

<sup>3</sup> *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003); see also *Thomas v. Arn*, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”).

