

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

ZEBULON WHISLER,

Petitioner,

v.

SUPERINTENDENT HERNANDEZ,

Respondent.

Case No. 3:24-cv-00109-SLG-KFR

ORDER ON REPORT AND RECOMMENDATION

Before the Court at Docket 1 is Petitioner Zebulon Whisler's Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241. Respondent Superintendent Hernandez filed a Motion to Dismiss the Petition at Docket 13. The motion was referred to the Honorable Magistrate Judge Kyle F. Reardon. At Docket 14, Judge Reardon issued his Report and Recommendation, in which he recommended that Respondent's Motion to Dismiss be granted and Mr. Whisler's § 2241 petition be dismissed as moot. No objections to the Report and Recommendation were filed.

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."¹ 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

¹ 28 U.S.C. § 636(b)(1).

made.”² However, § 636(b)(1) does not “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.”³

The Magistrate Judge recommended that the Court grant Respondent’s Motion to Dismiss because Mr. Whisler is no longer in state pretrial custody, as he has been convicted and sentenced on his state charge.⁴ The Magistrate Judge therefore also recommended that Mr. Whisler’s petition be dismissed as moot. The Court has reviewed the Report and Recommendation and agrees with its analysis. Accordingly, the Court adopts the Report and Recommendation, and IT IS ORDERED that Respondent’s Motion to Dismiss at Docket 13 is **GRANTED**, and Mr. Whisler’s § 2241 petition at Docket 1 is **DISMISSED** as moot.

The Clerk of Court shall enter a final judgment accordingly. A certificate of appealability shall not be issued by this Court, because reasonable jurists could not debate whether the petition should have been resolved in a different manner. See U.S.C. § 2253(c)(1)(A); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

DATED this 8th day of January 2025, at Anchorage, Alaska.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE

² *Id.*

³ *Thomas v. Arn*, 474 U.S. 140, 150 (1985); see also *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003).

⁴ Docket 14 at 2-3.