

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

DARRELL CHRISTOPHER DANNER,)) Petitioner,))	2:09-cv-00191- JWS
vs.)	ORDER FROM CHAMBERS
CHARLES RYAN, <i>et al.</i>,))	[Re: Report at docket 10]
Respondents.))	

I. MOTION PRESENTED

Pursuant to 28 U.S.C. § 2254, petitioner Danner seeks a writ of habeas corpus. At docket 10 Magistrate Judge Duncan filed a report recommending that the petition be denied and dismissed with prejudice. After several extensions of time, Danner filed objections at docket 21. Respondents did not reply to the objections. The matter is now ripe for decision by this court.

II. STANDARD OF REVIEW

In a case of this type, the district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.”¹ When reviewing a magistrate judge’s report and recommendation in a case such as this one, the district

¹28 U.S.C. § 636(b)(1).

court conducts *de novo* review of all conclusions of law,² and any findings of fact to which objections have been made.³ Uncontested findings of fact are reviewed for clear error.⁴

III. DISCUSSION

Having reviewed the file and applied the standard of review articulated above, this court concludes that the magistrate judge has correctly found the facts and applied the law. Danner's objections are essentially a rehash of the contentions advanced in his original 60-page petition. They are adequately addressed in the report from Judge Duncan.

IV. CONCLUSION

For the reasons above, this court adopts the magistrate judge's recommended findings and conclusions. Based thereon, the petition at docket 1 is **DENIED**, and the petition is **DISMISSED** with prejudice. The Clerk will please close this case.

This court concludes that Danner's second and fourth grounds are barred by a plain procedural bar as to which jurists of reason could not differ. This court further concludes that as to Danner's other grounds he has not made a substantial showing of denial of a constitutional right. For these reasons, this court declines to issue a certificate of appealability. If Danner desires to appeal this decision, he must apply to

²*Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989), *overruled on other grounds by Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir. 1996).

³28 U.S.C. § 636(b)(1).

⁴*Taberer v. Armstrong World Industries, Inc.*, 954 F.2d 888, 906 (3d Cir. 1992).

the Court of Appeals for the necessary certificate of appealability. See 28 U.S.C. § 2253(c)(2) and Fed. R. App. P. 22(b).

DATED this 16th day of June 2011.

/s/ JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE