

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

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|---------------------------------|---|-----------------------------------|
| GARY WAYNE HICKS, |) | |
| |) | |
| Petitioner, |) | 2:09-cv-00328 JWS |
| |) | |
| vs. |) | ORDER FROM CHAMBERS |
| |) | |
| CHARLES L. RYAN, et al., |) | [Re: Petition at docket 1; |
| |) | Report at docket 17] |
| Respondents. |) | |
| |) | |

I. MATTER PRESENTED

At docket 1, petitioner Gary Wayne Hicks sought a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondents filed a response at docket 13, to which Hicks filed a reply at docket 16. Thereafter, Magistrate Judge Lawrence O. Anderson, to whom the matter was referred, filed a report at docket 17 in which he recommended that the petition be denied. After obtaining an extension of time, Hicks filed objections at docket 20.

II. STANDARD OF REVIEW

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

¹28 U.S.C. § 636(b)(1).

report and recommendation in a case such as this one, the district 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

Hicks' petition raised four grounds, the first two of which the magistrate judge found had been procedurally barred, and the second two of which Judge Anderson found to be without merit. The recommended findings of fact and conclusions of law contained in the report from the magistrate judge amply support his recommended disposition of the petition. Although lengthy, the objections presented by Hicks do not raise any issue not adequately addressed in the report at docket 17. In sum, having reviewed the file, including the objections and applied the standard of review articulated in the preceding section, this court concludes that the magistrate judge has correctly found the facts and applied the law. This court adopts the recommended findings of fact and conclusions of law set out in Magistrate Judge Anderson's thorough and well-written report at docket 17.

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).

IV. CONCLUSION

For the reasons above, and based on findings and conclusions recommended by the magistrate judge which this court has adopted, the petition at docket 1 is **DENIED**.

The Clerk of Court will please enter judgment against petitioner, and close this case.

DATED this 7th day of December 2009.

/s/ JOHN W. SEDWICK
UNITED STATES DISTRICT JUDGE