

**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

ELTORNA GANT,	)	
	)	
Petitioner,	)	2:10-cv-0676 JWS (LOA)
	)	
vs.	)	ORDER FROM CHAMBERS
	)	
CHARLES RYAN, <i>et al.</i> ,	)	[Re: Report at docket 26]
	)	
Respondents.	)	
_____	)	

**I. MATTER PRESENTED**

Petitioner Gant seeks a writ of *habeas corpus* pursuant to 28 U.S.C. § 2254. The matter was briefed. Thereafter, Magistrate Judge Anderson filed a report at docket 26 recommending that the petition be denied. Gant has not filed any objections, and the time for objections has run. The matter is now ripe for decision by this court.

**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.”<sup>1</sup> When reviewing a magistrate judge’s report and recommendation in a case such as this one, the district court conducts *de*

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<sup>1</sup>28 U.S.C. § 636(b)(1).

*novo* review of all conclusions of law,<sup>2</sup> and any findings of fact to which objections have been made.<sup>3</sup> Here, there are no objections to any of the recommended findings of fact. Uncontested findings of fact are reviewed for clear error.<sup>4</sup>

### **III. DISCUSSION**

Having reviewed the file and applied the standard of review articulated above, this court concludes that Judge Anderson's thorough and meticulous report is correct in all material respects. He has correctly found the facts and applied the law to those facts.

### **IV. CONCLUSION**

For the reasons above, this court adopts the magistrate judge's recommended findings and conclusions. Based thereon, the petition for a writ of *habeas corpus* is **DENIED**. The Clerk of Court will please close this case.

This court further concludes that Gant has not made a substantial showing of denial of a constitutional right. Accordingly, this court declines to issue a certificate of

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<sup>2</sup>*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).

<sup>3</sup>28 U.S.C. § 636(b)(1).

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

appealability. If Gant wishes to appeal, he must apply to 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