IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

GAYLENE JODIE WATHOGOMA,

Petitioner,

vs.

CHARLES L. RYAN, et al.,

Respondents.

Case No. 2:12-cv-02686-PHX-SLG

ORDER DENYING PETITION FOR HABEAS CORPUS

Before the Court at Docket 1 is the Petition for Writ of Habeas Corpus filed by Petitioner Gaylene Jodie Wathogoma pursuant to 28 U.S.C. § 2254. An Answer to the Petition was filed at Docket 10. On February 26, 2014, at Docket 13, Magistrate Judge David K. Duncan issued a Report and Recommendation. The Magistrate Judge evaluated each of Ms. Wathogoma's claims on its merits, as it is undisputed that Ms. Wathogoma properly exhausted these claims by raising them in state court. After a thoughtful and thorough analysis, the Magistrate Judge recommended that the petition be denied and that this action be dismissed with prejudice. Neither party has filed objections to the Report and Recommendation.

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] The 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."[2] But when 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."[3]

There being no objections, and following this Court's review of the Report and Recommendation. the Court hereby ACCEPTS the Report and Recommendation of Magistrate Judge David Duncan.

Accordingly, IT IS ORDERED that the Petition for Habeas Corpus is DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that a Certificate of Appealability is DENIED because Ms. Wathogoma has not "made a substantial showing of the denial of a constitutional right" as required by 28 U.S.C. § 2253(c)(2).[4]

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[1] 28 U.S.C. § 636(b)(1).

[2] *Id*.

[3] *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.").

[4] *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000) (a certificate of appealability may be granted only if the applicant has made "a substantial showing of the denial of a constitutional right," i.e., a showing that "reasonable jurists could debate whether . . . the petition should have been

The Clerk of Court shall enter a final judgment accordingly.

Dated this 7th day of April, 2014.

/s/ Sharon L. Gleason
UNITED STATES DISTRICT JUDGE

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resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further" (internal quotation marks and citations omitted)).