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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Leslie Allen Achter,
Petitioner,
vs.
Craig Apker,
Respondent.

No. CV 11-512-TUC-RCC

ORDER

Pending before the Court is Petitioner Leslie Allen Achter’s Amended Petition for Writ of Habeas Corpus (Doc. 11) and Magistrate Judge Hector Estrada’s Report and Recommendation (R&R) (Doc. 23). The Court accepts and adopts Magistrate Judge Estrada’s R&R (Doc. 23) as the findings of fact and conclusions of law of this Court and denies Petitioner’s Amended Petition for Writ of Habeas Corpus (Doc. 11).

I. Background

This Court fully incorporates by reference the “Factual & Procedural Background” section of the R & R into this order.

On October 28, 2011, Petitioner filed his Amended Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Doc. 11). Respondent filed an Answer on January 3, 2012 (Doc. 21). Magistrate Judge Estrada filed a R&R recommending that Petitioner’s habeas petition be denied in full (Doc. 23). Petitioner did not file a response to the R&R within the

1 allotted time.

2 **II. Discussion**

3 The duties of the district court in connection with a R & R are set forth in Rule 72 of
4 the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may
5 “accept, reject, or modify the recommended disposition; receive further evidence; or return
6 the matter to the magistrate judge with instructions. FED.R.CIV.P. 72(b)(3); 28 U.S.C. §
7 636(b)(1).

8 Where the parties object to a R & R, “[a] judge of the [district] court shall make a *de*
9 *novo* determination of those portions of the [R & R] to which objection is made.” 28 U.S.C.
10 § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140, 149-50, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).
11 When no objection is filed, the district court need not review the R & R *de novo*. *Wang v.*
12 *Masaitis*, 416 F.3d 992, 1000 n. 13 (9th Cir.2005); *United States v. Reyna-Tapia*, 328 F.3d
13 1114, 1121-22 (9th Cir.2003) (en banc). Therefore to the extent that no objection has been
14 made, arguments to the contrary have been waived. *McCall v. Andrus*, 628 F.2d 1185, 1187
15 (9th Cir.1980) (failure to object to Magistrate's report waives right to do so on appeal); *see*
16 *also*, Advisory Committee Notes to Fed.R.Civ.P. 72 (citing *Campbell v. United States Dist.*
17 *Court*, 501 F.2d 196, 206 (9th Cir.1974) (when no timely objection is filed, the court need
18 only satisfy itself that there is no clear error on the face of the record in order to accept the
19 recommendation).

20
21 The Court will not disturb a Magistrate Judge's Order unless his factual findings are
22 clearly erroneous or his legal conclusions are contrary to law. 28 U.S.C. § 636(b)(1)(A).
23 “[T]he magistrate judge's decision ... is entitled to great deference by the district court.”
24 *United States v. Abonce-Barrera*, 257 F.3d 959, 969 (9th Cir.2001). A failure to raise an
25 objection waives all objections to the magistrate judge’s findings of fact. *Turner v. Duncan*,
26 158 F.3d 449, 455 (9th Cir. 1998). A failure to object to a Magistrate Judge’s conclusion “is
27 a factor to be weighed in considering the propriety of finding waiver of an issue on appeal.”
28 *Id.* (internal citations omitted).

1 Petitioner has filed no objections to the R&R (Doc. 23). The parties have not
2 objected to this recommendation, which relieves the Court of its obligation to review. *See*
3 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.2003); *Thomas v. Arn*, 474 U.S.
4 140, 149, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985) (“[Section 636(b)(1)] does not ... require
5 any review at all ... of any issue that is not the subject of an objection.”); Fed.R.Civ.P.
6 72(b)(3) (“The district judge must determine de novo any part of the magistrate judge’s
7 disposition that has been properly objected to.”). This Court considers the R&R to be
8 thorough and well-reasoned. After a thorough and de novo review of the record, the Court
9 will ADOPT the R&R of Magistrate Judge Estrada (Doc. 23).

10 Accordingly,

11 **IT IS HEREBY ORDERED** that Magistrate Judge Estrada’s Report and
12 Recommendation (Doc. 23) is hereby **ACCEPTED** and **ADOPTED** as the findings of fact
13 and conclusions of law by this Court.

14 **IT IS FURTHER ORDERED** Petitioner’s Amended Petition for Writ of Habeas
15 Corpus (Doc. 11) is **denied** without leave to amend, and this action is **dismissed with**
16 **prejudice**, and the Clerk shall enter judgment and close this case.

17 DATED this 6th day of June, 2012.

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22 _____
23 Raner C. Collins
24 United States District Judge
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