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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
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11 **RANDALL D. TOMLINSON,** ) **Case No. LA CV 14-02094-VBF (KK)**  
12 **Petitioner,** ) **ORDER Overruling Petitioner's**  
13 **v.** ) **Objections, Accepting the Findings and**  
14 **JOHN F. CARAWAY, Warden,** ) **Recommendations of the Magistrate**  
15 **Respondent.** ) **Judge, Denying Federal Prisoner's**  
16 **Section 2241 Habeas Corpus Petition,**  
 ) **and Dismissing this Action**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for a Writ of  
18 Habeas Corpus Pursuant to 28 U.S.C. § 2241 (Document ("Doc" 1), the respondent's  
19 Return (Doc 9) and the accompanying declaration and exhibits (Doc 9-1), petitioner's  
20 reply (Doc 17), the well-reasoned Report and Recommendation ("R&R") of the  
21 Honorable Kenly Kiya Kato, United States Magistrate Judge (Doc 14), petitioner's  
22 objections (Doc 16), the records on file, and the applicable law. After engaging in a  
23 de novo review of those portions of the R&R to which petitioner lodged specific  
24 objection, the Court accepts the findings and recommendation of the Magistrate  
25 Judge. IT IS THEREFORE ORDERED as follows:  
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27 Petitioner's objections are OVERRULED.

28 The petition for a writ of habeas corpus is DENIED.

This action is DISMISSED with prejudice.

1 As required by Federal Rule of Civil Procedure 58(a), final judgment will be  
2 entered by separate document.

3 As a federal prisoner, petitioner is not required to obtain a certificate of  
4 appealability in order to appeal to the U.S. Court of Appeals in this case. *See*  
5 *Harrison v. Ollison*, 519 F.3d 952, 958 (9th Cir.2008) (“The plain language of §  
6 2253(c)(1) does not require a petitioner to obtain a COA in order to appeal the denial  
7 of a § 2241 petition.”) (citing *Ford v. U.S. Parole Comm'n*, 114 F.3d 878, 879 (9th  
8 Cir. 1997))<sup>1</sup>; *Muth v. Fondren*, 676 F.3d 815, 818 (9th Cir.) (citations omitted), *cert.*  
9 *denied*, – U.S. –, 133 S. Ct. 292 (2012).

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11 Dated: September 16, 2014



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13 VALERIE BAKER FAIRBANK  
14 UNITED STATES DISTRICT JUDGE  
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17 <sup>1</sup>The relevant provision states as follows:

18 Unless a circuit justice or judge issues a certificate of appealability, an  
19 appeal may not be taken to the court of appeals from –  
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21 (A) the final order in a habeas corpus proceeding in which the  
22 detention complained of arises out of process issued by a State  
23 court [such as a petition pursuant to 28 U.S.C. § 2254]; or

24 (B) the final order in a proceeding under section 2255.

25 28 U.S.C. section 2253(c)(1). Our Circuit interprets section 2253 to require only  
26 habeas petitioners in custody pursuant to a *state-court* judgment to obtain a COA  
27 before appealing from a final order denying a § 2241 claim. *See Harrison*, 519 F.3d  
28 at 958 (“Although state prisoners proceeding under § 2241 must obtain a COA, *see*  
28 U.S.C. § 2253(c)(1)(A), there is no parallel requirement for federal prisoners.”).