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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

<b>MOHAMMAD KHAN,</b>  Petitioner,  v.  <b>STEVE LANGFORD (Warden),</b>  Respondent.	}	<b>No. LA CV 17-02750-VBF-KS</b>  <b>ORDER</b>  Adopting the Report & Recommendation;  Denying the Habeas Corpus Petition;  Dismissing the Action With Prejudice;  Directing Separate Final Judgment; Terminating and Closing Action (JS-6)
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This is an action for a Writ of Habeas Corpus by a Person in State Custody Pursuant to 28 U.S.C. § 2241. Pursuant to her authority under Fed. R. Civ. P. 72(b)(1), title 28 U.S.C. § 636(b)(1)(B), and C.D. Cal. Local Civil Rule 72-3.3, the United States Magistrate Judge issued a Report and Recommendation (“R&R”) on January 29, 2018. See CM/ECF Document (“Doc”) Doc 16. Petitioner has not filed objections to the R&R within the time allotted by Local Civil Rule 72-3.3. See *Sudduth v. Soto*, No. 2016 WL 4035337, \*1 (C.D. Cal. July 12, 2016) (“This Court never rules on an R&R without waiting for the objection deadline to pass, and it will not rule on the R&R here until at least one week after . . .

1 [petitioner]’s objection deadline elapses . . .”). Nor has petitioner sought an extension of  
2 the objection deadline. Accordingly, the Court proceeds without waiting further.

3 Pursuant to 28 U.S.C. § 636(b)(1), the Court has reviewed the Second Amended  
4 Habeas Petition filed July 21, 2017 (Doc 9), the respondent’s Return (Doc 12), petitioner’s  
5 traverse filed November 20, 2017 (Doc 14), the R&R (Doc 16), and the applicable law.

6  
7 By its terms, Federal Rule of Civil Procedure 72(b)(3) requires de novo review only  
8 of those portions of an R&R to which a party has specifically objected. *See Dawson v.*  
9 *Marshall*, 561 F.3d 930, 932 (9<sup>th</sup> Cir. 2009) (citing 28 U.S.C. § 636(b)(1)( C) and *US v.*  
10 *Howell*, 231 F.3d 615, 622 (9<sup>th</sup> Cir. 2000)); *see also US v. Reyna-Tapia*, 328 F.3d 1114, 1121  
11 (9<sup>th</sup> Cir. 2003) (en banc)). The Ninth Circuit holds that absent a timely objection purporting  
12 to identify specific defects in the R&R, the District Judge has no obligation to review the  
13 R&R at all. *See Reyna-Tapia*, 328 F.3d at 1121 (en banc); *see also Thomas v. Arn*, 474 U.S.  
14 140, 152, 106 S. Ct. 466, 473 (1985) (“There is no indication that Congress, in enacting [the  
15 Magistrates Act], intended to require a district judge to review a magistrate’s report.[.]”).  
16 *Accord Mario v. P&C Food Markets*, 313 F.3d 758, 766 (2d Cir. 2002).

17 “Nonetheless, the Magistrates Act does not *preclude* a district judge from reviewing  
18 an R&R to make sure that it recommends a legally permissible and appropriate outcome  
19 (based on sound reasoning and valid precedent) if she chooses to do so.” *Juarez v. Katavich*,  
20 2016 WL 2908238, \*2 (C.D. Cal. May 17, 2016) (citing *Beard*, 2013 WL 3934188 at \*1  
21 (quoting *Thomas*, 474 U.S. at 154)). “Indeed, the Advisory Committee Notes to Fed. R.  
22 Civ. P. 72(b) recommend that [w]hen no timely objection is filed, the Court review the  
23 magistrate’s recommendations for clear error on the face of the record.” *Juarez*, 2016 WL  
24 2908238 at \*2 (quoting *Beard*, 2013 WL 3934188 at \*1).

25 **Out of an abundance of caution, then, the Court has reviewed the R&R. On**  
26 **either clear-error or de novo review, the Court finds no defect of law, fact, or logic in**

1 **the R&R.** Therefore the Court will adopt the R&R and implement its recommendations.

3 ORDER

4 The Report and Recommendation [**Doc #16**] is **ADOPTED**.

5 The Second Amended Petition for a Writ of Habeas Corpus [**Doc #9**] is **DENIED**.

6 As required by Fed. R. Civ. P. 58(a), the Court will enter judgment by separate  
7 document. *See Jayne v. Sherman*, 706 F.3d 994, 1009 (9th Cir. 2013).<sup>1</sup>

8 **This action is DISMISSED with prejudice.**

9 **The case SHALL BE TERMINATED and closed (JS-6).**

10  
11 Dated: March 8, 2018



12  
13 Hon. Valerie Baker Fairbank  
14 Senior United States District Judge

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22 “As a federal prisoner proceeding under 28 U.S.C. § 2241, Petitioner is not required to obtain  
23 a certificate of appealability (‘COA’) in order to appeal to the United States Court of Appeals in this  
24 case.” *Fiorito v. Entzel*, 2018 WL 702834, \*1 (C.D. Cal. Feb. 1, 2018) (John Walter, J.) (citing,  
*inter alia*, *Harrison v. Ollison*, 519 F.3d 952, 958 (9<sup>th</sup> Cir. 2008) (holding that plain language of 28  
U.S.C. § 2253( c)(1) does not require *federal* prisoners bringing section 2241 actions to obtain a  
COA unless the putative 2241 petition “is merely a ‘disguised’ section 2255 petition”).

25 “Our circuit interprets section 2253 to require only habeas petitioners in custody pursuant to  
26 a *state-court* judgment to obtain a COA before appealing a final order denying a section 2241 claim.”  
27 *Tomlinson v. Caraway*, 2014 WL 4656432, \*1 n.1 (C.D. Cal. Sept. 16, 2014) (citing *Harrison*, 519  
F.3d at 958). *Accord Stryker v. Bear*, – F. App’x –, 2018 WL 921974, \*1 (10<sup>th</sup> Cir. 2018).