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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DIMAS CLEMENTE CHAVEZ,

1:02-cv-05320 OWW DLB (HC)

Petitioner,

ORDER ADOPTING FINDINGS AND
RECOMMENDATION, DENYING PETITION
FOR WRIT OF HABEAS CORPUS,
DIRECTING CLERK OF COURT TO ENTER
JUDGMENT IN FAVOR OF RESPONDENT,
AND DECLINING TO ISSUE CERTIFICATE
OF APPEALABILITY

v.

GAIL LEWIS,

Respondent.

/ [Doc. 54]

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On March 18, 2010, the Magistrate Judge issued Findings and Recommendation that the Petition for Writ of Habeas Corpus be DENIED. On March 24, 2010, an Amended Findings and Recommendation was issued due to a processing error. This Findings and Recommendation was served on all parties and contained notice that any objections were to be filed within thirty (30) days of the date of service of the order.

On March 31, 2010, Petitioner filed timely objections to the Findings and Recommendation.

In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted a *de novo* review of the case. Having carefully reviewed the entire file, including Petitioner's objections, the Court concludes that the Magistrate Judge's Findings and Recommendation is

1 supported by the record and proper analysis. Petitioner's objections present no grounds for
2 questioning the Magistrate Judge's analysis.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. The Amended Findings and Recommendation issued March 24, 2010, is
5 ADOPTED IN FULL;
- 6 2. The Petition for Writ of Habeas Corpus is DENIED;
- 7 3. The Clerk of the Court is DIRECTED to enter judgment in favor of Respondent;
- 8 4. The court declines to issue a Certificate of Appealability. 28 U.S.C. § 2253(c);
9 Slack v. McDaniel, 529 U.S. 473, 484 (2000) (a COA should be granted where
10 the applicant has made “a substantial showing of the denial of a constitutional
11 right,” i.e., when “reasonable jurists would find the district court’s assessment of
12 the constitutional claims debatable or wrong”; Hoffman v. Arave, 455 F.3d 926,
13 943 (9th Cir. 2006) (same). In the present case, the Court finds that reasonable
14 jurists would not find it debatable that the state courts’ decision denying
15 Petitioner’s petition for writ of habeas corpus were not “objectively
16 unreasonable.”

17 IT IS SO ORDERED.

18 **Dated:** April 16, 2010

19 /s/ Oliver W. Wanger
20 UNITED STATES DISTRICT JUDGE
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