

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

DOMINGO BUSTOS ANAYA,

1:08-cv-00287 OWW DLB HC

Petitioner,

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

v.

D.K. SISTO,

Respondent.

[Doc. 31]

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

On October 7, 2008, the Magistrate Judge issued [Findings and Recommendation](#) that the Petition for Writ of Habeas Corpus be DENIED. 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 December 3, 2008, 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 supported by the record and proper analysis. Petitioner's objections present no grounds for questioning the Magistrate Judge's analysis.

Accordingly, IT IS HEREBY ORDERED that:

1. The Findings and Recommendation issued October 7, 2008, is ADOPTED IN FULL;
2. The Petition for Writ of Habeas Corpus is DISMISSED, with prejudice;
3. The Clerk of the Court is DIRECTED to enter judgment in favor of Respondent; and
4. The court declines to issue a Certificate of Appealability. 28 U.S.C. § 2253(c); Slack v. McDaniel, 529 U.S. 473, 484 (2000) (in order to obtain a COA, petitioner must show: (1) that jurists of reason would find it debatable whether the petition stated a valid claim of a denial of a constitutional right; and (2) that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. Slack v. McDaniel, 529 U.S. 473, 484 (2000). In the present case, the Court does not find that jurists of reason would not find it debatable whether the petition was properly dismissed, with prejudice, as time-barred under 28 U.S.C. § 2244(d)(1). Petitioner has not made the required substantial showing of the denial of a constitutional right.

IT IS SO ORDERED.

**Dated: January 7, 2009**

**/s/ Oliver W. Wanger**  
**UNITED STATES DISTRICT JUDGE**