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6 **UNITED STATES DISTRICT COURT**
78 EASTERN DISTRICT OF CALIFORNIA
910 NICHOLAS E. FANADY, 1:08-cv-00963-OWW-DLB (HC)
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12 Petitioner,

13 v.
1415 MICHAEL S. EVANS, Warden
1617 Respondent.
1819 ORDER ADOPTING FINDINGS AND
20 RECOMMENDATION, DENYING PETITION
21 FOR WRIT OF HABEAS CORPUS,
22 DIRECTING CLERK OF COURT TO ENTER
23 JUDGMENT IN FAVOR OF RESPONDENT,
24 AND DECLINING TO ISSUE CERTIFICATE
25 OF APPEALABILITY
2627 [Doc. 23]
2829 Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant
30 to 28 U.S.C. § 2254. Petitioner is represented by Philip M. Brooks, Esq.31 On December 12, 2008, the Magistrate Judge issued [Findings and Recommendation](#) that
32 the Petition for Writ of Habeas Corpus be DENIED. This Findings and Recommendation was
33 served on all parties and contained notice that any objections were to be filed within thirty (30)
34 days of the date of service of the order.35 On January 7, 2009, Petitioner filed timely [objections](#) to the Findings and
36 Recommendation.37 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this Court has conducted
38 a *de novo* review of the case. Having carefully reviewed the entire file, including Petitioner's
39 objections, the Court concludes that the Magistrate Judge's Findings and Recommendation is
40 supported by the record and proper analysis. Petitioner's objections present no grounds for
41 questioning the Magistrate Judge's analysis.

1 Accordingly, IT IS HEREBY ORDERED that:

2 1. The Findings and Recommendation issued December 12, 2008, is ADOPTED IN
3 FULL;

4 2. The Petition for Writ of Habeas Corpus is DENIED;

5 3. The Clerk of the Court is DIRECTED to enter judgment in favor of Respondent;
6 and,

7 4. The court declines to issue a Certificate of Appealability. 28 U.S.C. § 2253(c);
8 Slack v. McDaniel, 529 U.S. 473, 484 (2000) (a COA should be granted where
9 the applicant has made “a substantial showing of the denial of a constitutional
10 right,” i.e., when “reasonable jurists would find the district court’s assessment of
11 the constitutional claims debatable or wrong”; Hoffman v. Arave, 455 F.3d 926,
12 943 (9th Cir. 2006) (same). In the present case, the Court finds that reasonable
13 jurists would not find it debatable that the state courts’ decision denying
14 Petitioner’s petition for writ of habeas corpus were not “objectively
15 unreasonable.”

16 IT IS SO ORDERED.

17 Dated: February 9, 2009

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

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