

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NICHOLAS E. FANADY,

1:08-cv-00963-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.

MICHAEL S. EVANS, Warden

Respondent.

/ [Doc. 23]

Petitioner is a state prisoner proceeding with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner is represented by Philip M. Brooks, Esq.

On December 12, 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 January 7, 2009, 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 December 12, 2008, is ADOPTED IN FULL;
2. The Petition for Writ of Habeas Corpus is DENIED;
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) (a COA should be granted where the applicant has made “a substantial showing of the denial of a constitutional right,” i.e., when “reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong”; Hoffman v. Arave, 455 F.3d 926, 943 (9th Cir. 2006) (same). In the present case, the Court finds that reasonable jurists would not find it debatable that the state courts’ decision denying Petitioner’s petition for writ of habeas corpus were not “objectively unreasonable.”

IT IS SO ORDERED.

Dated: February 9, 2009

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE