UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

RENE J. ZAMORA,

Petitioner,

ORDER ADOPTING FINDINGS AND RECOMMENDING DENIAL OF THE PETITION FOR WRIT OF HABEAS CORPUS AND DENIAL OF A CERTIFICATE OF APPEALABILITY

Respondent.

(Docs. 21 and 25)

Petitioner is a state prisoner proceeding *pro se* and *in forma pauperis* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court referred the matter to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 304.

On May 20, 2015, the Magistrate Judge filed findings and recommendations in which she recommended that the Court deny Petitioner's motion for an evidentiary hearing, deny the petition for writ of habeas corpus, enter judgment for Respondent, and decline to issue a certificate of appealability. The findings and recommendations, which were served on all parties, provided that objections could be served within thirty days and replies within fourteen days after the filing of any objections. Because neither party filed objections within the requisite time period, the Court adopted the findings and recommendations on July 1, 2015, well after the thirty-day period for filing objections expired. On the same day, the Clerk of Court entered judgment for Respondent and closed the case.

Meanwhile, in a motion dated June 25, 2015, Petitioner moved for a 45-day extension of time in which to file objections to the findings and recommendations. Doc. 24. Petitioner reported that because he had been relocated to the administrative segregation unit of a new prison, he had been unable to secure priority use of the prison law library until June 24, 2015. Petitioner attested, under penalty of perjury, to placing the motion in the mail deposit box of Salinas Valley Prison on June 25, 2015, properly addressed to the Clerk of Court. On July 14, 2015, after accepting Petitioner's representation of the mailing date, the Court found that Petitioner's motion was timely, vacated its adoption of the findings and recommendations, and reopened the period in which Petitioner could file objections to the findings and recommendations for 45 days. *See Houston v. Lack*, 487 U.S. 266, 270 (1988). Although that 45-day period has now passed, Petitioner has filed no objections to the findings and recommendations.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), having carefully reviewed the entire file *de novo* and considered Petitioner's objections, the Court restates its prior conclusion that the findings and recommendations are supported by the record and proper analysis.

Accordingly, the Court hereby ORDERS that the findings and recommendations filed May 20, 2015, be adopted in full. The Court DECLINES to issue a certificate of appealability. The Court DIRECTS the Clerk of Court to enter judgment for Respondent.

IT IS SO ORDERED.

Dated: September 15, 2015 /s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE